

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 2824 & 1723, Page 18, Section 337.800, Line 91,
2 by inserting after all of said section and line the following:
3

4 "455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085
5 shall be to protect the petitioner from domestic violence, stalking, or sexual assault and may include such
6 terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

7 (1) Temporarily enjoining the respondent from committing or threatening to commit domestic
8 violence, molesting, stalking, sexual assault, or disturbing the peace of the petitioner, including violence
9 against a pet;

10 (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the
11 petitioner when the dwelling unit is:

12 (a) Jointly owned, leased or rented or jointly occupied by both parties; or

13 (b) Owned, leased, rented or occupied by petitioner individually; or

14 (c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent;
15 provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a
16 property interest in the dwelling unit; or

17 (d) Jointly occupied by the petitioner and a person other than respondent; provided that the
18 respondent has no property interest in the dwelling unit; or

19 (3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or
20 through any medium.

21 2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions
22 and proper service has been made in accordance with sections 455.010 to 455.085.

23 3. When the court has, after a hearing for any full order of protection, issued an order of protection, it
24 may, in addition:

25 (1) Award custody of any minor child born to or adopted by the parties when the court has
26 jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best
27 interests of the child require such order be issued;

28 (2) Establish a visitation schedule that is in the best interests of the child;

29 (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;

Action Taken _____ Date _____

1 (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in
2 accordance with chapter 452;

3 (5) Order respondent to make or to continue to make rent or mortgage payments on a residence
4 occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other
5 dependent household members;

6 (6) Order the respondent to pay the petitioner's rent at a residence other than the one previously
7 shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner
8 requests alternative housing;

9 (7) Order that the petitioner be given temporary possession of specified personal property, such as
10 automobiles, checkbooks, keys, and other personal effects;

11 (8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified
12 property mutually owned or leased by the parties;

13 (9) Order the respondent to participate in a court-approved counseling program designed to help
14 batterers stop violent behavior or to participate in a substance abuse treatment program;

15 (10) Order the respondent to pay a reasonable fee for housing and other services that have been
16 provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

17 (11) Order the respondent to pay court costs;

18 (12) Order the respondent to pay the cost of medical treatment and services that have been provided
19 or that are being provided to the petitioner as a result of injuries sustained to the petitioner by an act of
20 domestic violence committed by the respondent;

21 (13) Award possession and care of any pet, along with any moneys necessary to cover medical costs
22 that may have resulted from abuse of the pet.

23 4. If the court issues, after a hearing for any full order of protection, an order of protection, the court
24 shall also:

25 (1) Prohibit the respondent from knowingly possessing or purchasing any firearm while the order is
26 in effect;

27 (2) Inform the respondent of such prohibition in writing and, if the respondent is present, orally; and

28 (3) Forward the order to the Missouri state highway patrol so that the Missouri state highway patrol
29 can update the respondent's record in the National Instant Criminal Background Check System (NICS).
30 Upon receiving an order under this subsection, the Missouri state highway patrol shall notify the Federal
31 Bureau of Investigation within twenty-four hours.

32 5. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent,
33 payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance,
34 or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain
35 allegations relating to those orders and shall pray for the orders desired.

36 [~~5-~~] 6. In making an award of custody, the court shall consider all relevant factors including the
37 presumption that the best interests of the child will be served by placing the child in the custody and care of
38 the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which
39 case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed

1 special advocate to represent the children in accordance with chapter 452 and shall consider all other factors
2 in accordance with chapter 452.

3 ~~[6-]~~ 7. The court shall grant to the noncustodial parent rights to visitation with any minor child born
4 to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's
5 physical health, impair the child's emotional development or would otherwise conflict with the best interests
6 of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from
7 further domestic violence. The court may appoint a guardian ad litem or court-appointed special advocate to
8 represent the minor child in accordance with chapter 452 whenever the custodial parent alleges that visitation
9 with the noncustodial parent will damage the minor child.

10 ~~[7-]~~ 8. The court shall make an order requiring the noncustodial party to pay an amount reasonable
11 and necessary for the support of any child to whom the party owes a duty of support when no prior order of
12 support is outstanding and after all relevant factors have been considered, in accordance with Missouri
13 supreme court rule 88.01 and chapter 452.

14 ~~[8-]~~ 9. The court may grant a maintenance order to a party for a period of time, not to exceed one
15 hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452.

16 ~~[9-]~~ 10. (1) The court may, in order to ensure that a petitioner can maintain an existing wireless
17 telephone number or numbers, issue an order, after notice and an opportunity to be heard, directing a wireless
18 service provider to transfer the billing responsibility for and rights to the wireless telephone number or
19 numbers to the petitioner, if the petitioner is not the wireless service account holder.

20 (2) (a) The order transferring billing responsibility for and rights to the wireless telephone number
21 or numbers to the petitioner shall list the name and billing telephone number of the account holder, the name
22 and contact information of the person to whom the telephone number or numbers will be transferred, and
23 each telephone number to be transferred to that person. The court shall ensure that the contact information of
24 the petitioner is not provided to the account holder in proceedings held under this chapter.

25 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either electronically or
26 by certified mail, to the wireless service provider's registered agent listed with the secretary of state, or
27 electronically to the email address provided by the wireless service provider. Such transmittal shall constitute
28 adequate notice for the wireless service provider acting under this section and section 455.523.

29 (c) If the wireless service provider cannot operationally or technically effectuate the order due to
30 certain circumstances, the wireless service provider shall notify the petitioner within three business days.
31 Such circumstances shall include, but not be limited to, the following:

- 32 a. The account holder has already terminated the account;
33 b. The differences in network technology prevent the functionality of a device on the network; or
34 c. There are geographic or other limitations on network or service availability.

35 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone number or
36 numbers to the petitioner under this subsection by a wireless service provider, the petitioner shall assume all
37 financial responsibility for the transferred wireless telephone number or numbers, monthly service costs, and
38 costs for any mobile device associated with the wireless telephone number or numbers.

1 (b) This section shall not preclude a wireless service provider from applying any routine and
 2 customary requirements for account establishment to the petitioner as part of this transfer of billing
 3 responsibility for a wireless telephone number or numbers and any devices attached to that number or
 4 numbers including, but not limited to, identification, financial information, and customer preferences.

5 (4) This section shall not affect the ability of the court to apportion the assets and debts of the parties
 6 as provided for in law, or the ability to determine the temporary use, possession, and control of personal
 7 property.

8 (5) No cause of action shall lie against any wireless service provider, its officers, employees, or
 9 agents, for actions taken in accordance with the terms of a court order issued under this section.

10 (6) As used in this section and section 455.523, a "wireless service provider" means a provider of
 11 commercial mobile service under Section 332(d) of the federal [~~Telecommunications~~] Communications Act
 12 of [~~1996~~] 1934 (47 U.S.C. Section [~~151, et seq.~~] 332).

13 455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be to
 14 protect the victim from domestic violence, including danger to the child's pet, stalking, and sexual assault
 15 may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including
 16 but not limited to:

17 (1) Temporarily enjoining the respondent from committing domestic violence or sexual assault,
 18 threatening to commit domestic violence or sexual assault, stalking, molesting, or disturbing the peace of the
 19 victim;

20 (2) Temporarily enjoining the respondent from entering the family home of the victim, except as
 21 specifically authorized by the court;

22 (3) Temporarily enjoining the respondent from communicating with the victim in any manner or
 23 through any medium, except as specifically authorized by the court.

24 2. If the court issues, after a hearing for any full order of protection, an order of protection, the court
 25 shall also:

26 (1) Prohibit the respondent from knowingly possessing or purchasing any firearm while the order is
 27 in effect;

28 (2) Inform the respondent of such prohibition in writing and, if the respondent is present, orally; and

29 (3) Forward the order to the Missouri state highway patrol so that the Missouri state highway patrol
 30 can update the respondent's record in the National Instant Criminal Background Check System (NICS).

31 Upon receiving an order under this subsection, the Missouri state highway patrol shall notify the Federal
 32 Bureau of Investigation within twenty-four hours.

33 3. When the court has, after hearing for any full order of protection, issued an order of protection, it
 34 may, in addition:

35 (1) Award custody of any minor child born to or adopted by the parties when the court has
 36 jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best
 37 interests of the child require such order be issued;

38 (2) Award visitation;

39 (3) Award child support in accordance with supreme court rule 88.01 and chapter 452;

1 (4) Award maintenance to petitioner when petitioner and respondent are lawfully married in
2 accordance with chapter 452;

3 (5) Order respondent to make or to continue to make rent or mortgage payments on a residence
4 occupied by the victim if the respondent is found to have a duty to support the victim or other dependent
5 household members;

6 (6) Order the respondent to participate in a court-approved counseling program designed to help stop
7 violent behavior or to treat substance abuse;

8 (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her treatment,
9 together with the treatment costs incurred by the victim;

10 (8) Order the respondent to pay a reasonable fee for housing and other services that have been
11 provided or that are being provided to the victim by a shelter for victims of domestic violence;

12 (9) Order a wireless service provider, in accordance with the process, provisions, and requirements
13 set out in subdivisions (1) to (6) of subsection [9] 10 of section 455.050, to transfer the billing responsibility
14 for and rights to the wireless telephone number or numbers of any minor children in the petitioner's care to
15 the petitioner, if the petitioner is not the wireless service account holder;

16 (10) Award possession and care of any pet, along with any moneys necessary to cover medical costs
17 that may have resulted from abuse of the pet.

18 565.076. 1. A person commits the offense of domestic assault in the fourth degree if the act involves
19 a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

20 (1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to such
21 domestic victim;

22 (2) With criminal negligence the person causes physical injury to such domestic victim by means of
23 a deadly weapon or dangerous instrument;

24 (3) The person purposely places such domestic victim in apprehension of immediate physical injury
25 by any means;

26 (4) The person recklessly engages in conduct which creates a substantial risk of death or serious
27 physical injury to such domestic victim;

28 (5) The person knowingly causes physical contact with such domestic victim knowing he or she will
29 regard the contact as offensive; or

30 (6) The person knowingly attempts to cause or causes the isolation of such domestic victim by
31 unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication
32 devices or transportation for the purpose of isolation.

33 2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the person
34 has previously been found guilty of the offense of domestic assault, of any assault offense under this chapter,
35 or of any offense against a domestic victim committed in violation of any county or municipal ordinance in
36 any state, any state law, any federal law, or any military law which if committed in this state two or more
37 times would be a violation of this section, in which case it is a class E felony. The offenses described in this
38 subsection may be against the same domestic victim or against different domestic victims.

1 3. Upon a person's conviction for the offense of domestic assault in the fourth degree, the court shall
 2 forward the record of conviction to the Missouri state highway patrol so that the Missouri state highway
 3 patrol can update the offender's record in the National Instant Criminal Background Check System (NICS).
 4 Upon receiving a record under this subsection, the Missouri state highway patrol shall notify the Federal
 5 Bureau of Investigation within twenty-four hours.

6 565.227. 1. A person commits the offense of stalking in the second degree if he or she purposely,
 7 through his or her course of conduct, disturbs, or follows with the intent to disturb another person.

8 2. This section shall not apply to activities of federal, state, county, or municipal law enforcement
 9 officers conducting investigations of any violation of federal, state, county, or municipal law.

10 3. Any law enforcement officer may arrest, without a warrant, any person he or she has probable
 11 cause to believe has violated the provisions of this section.

12 4. The offense of stalking in the second degree is a class A misdemeanor, unless the defendant has
 13 previously been found guilty of a violation of this section or section 565.225, or of any offense committed in
 14 another jurisdiction which, if committed in this state, would be chargeable or indictable as a violation of any
 15 offense listed in this section or section 565.225, or unless the victim is intentionally targeted as a law
 16 enforcement officer, as defined in section 556.061, or the victim is targeted because he or she is a relative
 17 within the second degree of consanguinity or affinity to a law enforcement officer, in which case stalking in
 18 the second degree is a class E felony.

19 5. Upon a person's conviction for the offense of stalking in the second degree, the court shall forward
 20 the record of conviction to the Missouri state highway patrol so that the Missouri state highway patrol can
 21 update the offender's record in the National Instant Criminal Background Check System (NICS). Upon
 22 receiving a record under this subsection, the Missouri state highway patrol shall notify the Federal Bureau of
 23 Investigation within twenty-four hours.

24 571.070. 1. A person commits the offense of unlawful possession of a firearm if such person
 25 knowingly has any firearm in his or her possession and:

26 (1) Such person has been convicted of a felony under the laws of this state, or of a crime under the
 27 laws of any state or of the United States which, if committed within this state, would be a felony; [øø]

28 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is
 29 currently adjudged mentally incompetent;

30 (3) Such person has been convicted of a misdemeanor offense of domestic violence under the laws
 31 of this state, or of a crime under the laws of any state or of the United States that if committed in this state
 32 would be a misdemeanor offense of domestic violence; or

33 (4) Such person is subject to an order of protection granted under sections 455.010 to 455.095 or
 34 sections 455.500 to 455.538 that was issued after a hearing of which the person had actual notice and at
 35 which the person had an opportunity to participate or such person is subject to an equivalent order issued
 36 under the laws of another state or the United States.

37 2. Unlawful possession of a firearm is a class D felony, unless a person has been convicted of a
 38 dangerous felony as defined in section 556.061, in which case it is a class C felony.

1 3. (1) Except as otherwise provided in this subsection, the provisions of subdivision (1) of
2 subsection 1 of this section shall not apply to the possession of an antique firearm.

3 (2) The exception under subdivision (1) of this subsection allowing for the possession of an antique
4 firearm shall not apply if the felony described under subdivision (1) of subsection 1 of this section is a felony
5 offense of domestic violence.

6 4. As used in this section, the following terms mean:

7 (1) "Family" or "household member", the same meaning given to the terms in section 455.010;

8 (2) "Felony offense of domestic violence":

9 (a) Domestic assault in the first degree under section 565.072;

10 (b) Domestic assault in the second degree under section 565.073;

11 (c) Domestic assault in the third degree under section 565.074;

12 (d) Stalking in the first degree under section 565.225; or

13 (e) Any felony offense committed by a family or household member of the victim that involves the
14 use or attempted use of physical force or the threatened use of a deadly weapon;

15 (3) "Misdemeanor offense of domestic violence":

16 (a) Domestic assault in the fourth degree under section 565.076;

17 (b) Stalking in the second degree under section 565.227; or

18 (c) Any misdemeanor offense committed by a family or household member of the victim that
19 involves the use or attempted use of physical force or the threatened use of a deadly weapon."; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.