

HB 3286 -- FIREARMS

SPONSOR: Fuchs

ORDERS OF PROTECTIONS (Section 455.050 and 455.523)

Currently, a court can issue an adult abuse or child abuse order of protection in domestic violence, stalking, sexual assault or danger to the child's pet cases to ensure the petitioner's safety. This bill states that, if the court issues such an order, the court may also:

- (1) Prohibit the respondent from knowingly possessing or purchasing any firearm while the order is in effect;
- (2) Inform the respondent of such a prohibition in writing and, if present, orally; and
- (3) Forward the order to the Missouri State Highway Patrol so that the respondent's record may be updated in the National Instant Criminal Background System (NICS); the Highway Patrol must also notify the Federal Bureau of Investigation (FBI) within 24 hours.

HAILEY'S LAW AND EXTREME RISK ORDER OF PROTECTION (Section 455.096)

This bill establishes "Hailey's Law" and an "extreme risk order of protection". An extreme order of protection allows a court to restrain or enjoin a respondent from possessing any firearm if a law enforcement officer or agency proves by a preponderance of the evidence that an immediate and significant danger exists to a respondent at risk of causing personal injury to him or herself or others.

If the respondent is under 18 years of age, unless otherwise emancipated, the respondent's custodial parent or guardian, or a guardian ad litem appointed by the court must be served process, requiring the person appear with the respondent before the court. If an ex parte order is entered and the respondent is under 18 years of age, the court must transfer the case to juvenile court for a hearing on a full order of protection and appoint a guardian ad litem if the respondent is not represented by a parent or guardian.

A court may immediately issue an ex parte order of protection for good cause shown and the court must order the respondent to

surrender all firearms as specified in the bill. If the respondent does not comply, a law enforcement officer serving the order must conduct a lawful search and seizure of any firearms of the respondent. The firearms must not be held for more than 120 days, unless the court issues a full extreme risk order of protection.

The court will hold a hearing within 15 days of the filing of the petition and, if the court issues a full extreme risk order of protection based on clear and convincing evidence, the person subject to the order of protection must surrender any firearms in his or her possession, control, or ownership as specified in the bill. The law enforcement officer taking possession of any firearm must issue a receipt identifying the surrendered firearm.

This bill also provides that a respondent to an extreme risk order of protection may file a petition to modify or rescind an order. A law enforcement officer or agency may also renew the extreme risk order of protection for up to one year from the expiration of the preceding order.

If an extreme risk order of protection is issued, the clerk of the court must send the Missouri State Highway Patrol a copy within 48 hours, and the order must be entered into the Missouri Uniform Law Enforcement System (MULES) within 48 hours of receiving the notice of the order.

Any violation of an ex parte or full extreme risk order of protection is a Class A misdemeanor for the first violation and a Class E felony for any subsequent violation.

REPORTING OF CERTAIN OFFENSES (Section 565.076 and 565.227)

This bill requires the court to forward a record of conviction for the offenses of domestic assault in the fourth degree and stalking in the second degree to the Highway Patrol so that the respondent's record may be updated in the NICS and the Highway Patrol must also notify the FBI within 24 hours.

UNLAWFUL POSSESSION OF A FIREARM (Section 571.070)

Currently, a person commits the offense of unlawful possession of a firearm if such person knowingly has a firearm in his or her possession and additional listed circumstances apply. This bill adds the following new circumstances:

(1) Such person has also been convicted of a misdemeanor offense of domestic violence, or of a crime in any other state that, if committed in Missouri, would be a misdemeanor offense of domestic violence; or

(2) Such person is also subject to an adult or child abuse order of protection, as described in the bill.

The bill also adds new definitions for "family" or "household member", and "misdemeanor offense of domestic violence", as described in the bill.