

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SCS/HCS/House Bill No. 16, Page 1, Section TITLE, Line 3,

2 by striking "the offense of unlawful transfer of weapons" and
 3 inserting in lieu thereof the following: "public safety"; and

4 Further amend said bill, page 2, section 571.060, line 28,
 5 by inserting after all of said line the following:

6 "571.070. 1. A person commits the offense of unlawful
 7 possession of a firearm if such person knowingly has any firearm
 8 in his or her possession and:

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

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

16 (3) Such person is subject to an extreme risk order of
 17 protection as such term is defined in section 571.074.

18 2. Unlawful possession of a firearm is a class D felony.

19 3. The provisions of subdivision (1) of subsection 1 of
 20 this section shall not apply to the possession of an antique
 21 firearm.

1 571.074. 1. This section creates an extreme risk order of
2 protection to provide due process procedures for keeping guns out
3 of the hands of those who may harm themselves or others. The
4 court may grant an extreme risk order of protection provided
5 that:

6 (1) A petition for an extreme risk order of protection
7 shall:

8 (a) Allege that the respondent poses a significant danger
9 of causing personal injury to self or others by: having in his
10 or her custody or control, purchasing, possessing, or receiving a
11 firearm, and be accompanied by an affidavit made under oath
12 stating the specific statements, actions, or facts that give rise
13 to a reasonable fear of future dangerous acts by the respondent;

14 (b) Identify the number, types, and locations of any
15 firearms the petitioner believes to be in the respondent's
16 current ownership, possession, custody, or control;

17 (c) Identify whether there is a pending lawsuit, complaint,
18 petition, or other action between the parties to the petition
19 under the laws of Missouri;

20 (d) Identify if petitioner has actual knowledge that
21 respondent carries a firearm as a condition of respondent's
22 employment;

23 (2) Upon the filing of a petition seeking an extreme risk
24 order of protection and if petitioner proves by a preponderance
25 of the evidence that an immediate and significant danger exists
26 of the respondent causing personal injury to self or others by:
27 having in his or her custody or control, purchasing, possessing,
28 or receiving a firearm, the court shall immediately issue an ex
29 parte order of protection. An ex parte order shall be entered by

1 the court on the same day as the filing or the next day the court
2 is in session. The ex parte order takes effect when entered and
3 shall remain in effect until there is valid service of process
4 and a hearing is held on the petition;

5 (3) Upon issuance of any ex parte order of protection under
6 subdivision (2) of this subsection, the court shall order the
7 respondent to surrender to the local law enforcement agency where
8 the respondent resides, all firearms in the respondent's custody,
9 control, or possession. The law enforcement officer serving any
10 ex parte order of protection shall provide the respondent to the
11 order an opportunity to comply with the order by surrendering all
12 firearms in his or her custody, control, or possession. If the
13 respondent does not comply, the law enforcement officer serving
14 the order shall conduct a lawful search and seizure of any
15 firearms of the respondent and in any area where probable cause
16 exists that a firearm to be surrendered pursuant to the order is
17 located. The law enforcement agency shall hold all surrendered
18 firearms until a hearing is held on the petition for the extreme
19 risk order of protection.

20 (4) Upon receiving a petition seeking an extreme risk order
21 of protection, the court shall conduct a hearing on whether to
22 issue the order within fourteen days after the petition is filed.

23
24 The court shall make as many as three good faith attempts to
25 notify the respondent of the hearing once the petition is filed
26 for the purpose of providing the respondent the opportunity to be
27 present and represent him or herself at the hearing. Notice may
28 be made by phone, email, certified mail, or court summons. The
29 court shall maintain a record of each attempt;

1 (5) At the hearing, if the petitioner has proved the
2 allegation that the respondent poses a significant danger to him
3 or herself or others by clear and convincing evidence, the court
4 shall issue a full extreme risk order of protection for a period
5 of time of one year;

6 (6) The court clerk or administrator shall verify the terms
7 of any existing order governing the parties. The court shall not
8 delay granting relief because of the existence of a pending
9 action between the parties or the necessity of verifying the
10 terms of an existing order. A petition for an extreme risk
11 protection order shall be granted whether or not there is a
12 pending action between the parties;

13 (7) If the petitioner is a law enforcement officer or
14 agency, the petitioner shall make a good faith effort to provide
15 notice to a family or household member of the respondent and to
16 any known third party who may be at risk of violence. The notice
17 shall state that the petitioner intends to petition the court for
18 an extreme risk order of protection or has already done so, and
19 include referrals to appropriate resources, including mental
20 health, domestic violence, and counseling resources. The
21 petitioner shall attest in the petition to having provided such
22 notice, or attest to the steps that shall be taken to provide
23 such notice;

24 (8) If the petition states that disclosure of the
25 petitioner's address would risk harm to the petitioner or any
26 member of the petitioner's family or household, the petitioner's
27 address shall be omitted from all documents filed with the court.
28 If the petitioner has not disclosed an address under this
29 subsection, the petitioner shall designate an alternative address

1 at which the respondent may serve notice of any motions. If the
2 petitioner is a law enforcement officer or agency, the address of
3 record shall be that of the law enforcement agency;

4 (9) No fees for filing or service of process may be charged
5 by a court or any public agency to petitioners seeking relief
6 under this subsection. Petitioners shall be provided the
7 necessary number of certified copies, forms, and instructional
8 brochures free of charge;

9 (10) A person is not required to post a bond to obtain
10 relief in any proceeding under this subsection.

11 2. Upon issuance of any extreme risk order of protection
12 under this section, the court shall order the respondent to
13 surrender to the local law enforcement agency where the
14 respondent resides, all firearms in the respondent's custody,
15 control, or possession. If the respondent has been identified in
16 the petition as being required to carry a firearm as a condition
17 of the respondent's employment, the court shall notify the
18 respondent's employer of the existence of the order. If the
19 respondent holds a concealed carry permit pursuant to section
20 571.101, the court shall order a revocation of the concealed
21 carry permit.

22 (1) The law enforcement officer serving any extreme risk
23 order of protection shall provide the respondent to the order an
24 opportunity to comply with the order by surrendering all firearms
25 in his or her custody, control, or possession. If the respondent
26 does not comply, the law enforcement officer serving the order
27 shall:

28 (a) Conduct a lawful search of the respondent and any area
29 where probable cause exists that a firearm to be surrendered

1 pursuant to the order is located; and

2 (b) Take possession of all firearms belonging to the
3 respondent that are surrendered, in plain sight, or discovered
4 pursuant to a lawful search conducted pursuant to paragraph (a)
5 of this subdivision.

6 (2) If personal service by a law enforcement officer is not
7 possible, or not required because the respondent was present at
8 the extreme risk order of protection hearing, the respondent
9 shall surrender the firearms in a safe manner to the control of
10 the local law enforcement agency within forty-eight hours of
11 being served with the order by alternate service or within
12 forty-eight hours of the hearing or final decision at which the
13 respondent was present.

14 (3) At the time of surrender, a law enforcement officer
15 taking possession of a firearm shall issue a receipt identifying
16 all firearms that have been surrendered and provide a copy of the
17 receipt to the respondent. Within seventy-two hours after
18 service of the order, the officer serving the order shall file
19 the original receipt with the court and shall ensure that his or
20 her law enforcement agency retains a copy of the receipt.

21 (4) Upon the sworn statement or testimony of the petitioner
22 or of any law enforcement officer alleging that the respondent
23 has failed to comply with the surrender of firearms as required
24 by an order issued under subsections 1 and 2 of this section, the
25 court shall determine whether probable cause exists to believe
26 that the respondent has failed to surrender all firearms in his
27 or her possession, custody, or control. If probable cause
28 exists, the court shall issue a warrant describing the firearms
29 and authorizing a search of the locations where the firearms are

1 reasonably believed to be and the seizure of any firearms
2 discovered pursuant to such search.

3 (5) If a person other than the respondent claims title to
4 any firearms surrendered pursuant to subsections 1 and 2 of this
5 section, and he or she is determined by the law enforcement
6 agency to be the lawful owner of the firearm, the firearm shall
7 be returned to him or her, provided that:

8 (a) The firearm is removed from the respondent's custody,
9 control, or possession and the lawful owner agrees to store the
10 firearm in a manner such that the respondent does not have access
11 to or control of the firearm; and

12 (b) The firearm is not otherwise unlawfully possessed by
13 the owner.

14 (6) A respondent to an extreme risk order of protection may
15 file a motion to modify or rescind that order of protection. The
16 respondent may request a hearing on such a motion with the court
17 that issued the original extreme risk order of protection. The
18 court shall conduct a hearing on the motion to modify or rescind
19 an extreme risk order of protection within fourteen days after
20 the motion is filed. At the hearing, if the respondent has
21 proved by clear and convincing evidence that the extreme risk
22 order of protection must be modified or rescinded, the court
23 shall modify or rescind the extreme risk order of protection.

24 3. If an extreme risk order of protection is terminated or
25 expires without renewal, a law enforcement agency holding any
26 firearm that has been surrendered pursuant to subsections 1 and 2
27 of this section shall return any surrendered firearm requested by
28 a respondent only after confirming, through a background check
29 administered by the state highway patrol under section 43.543,

1 that the respondent is currently eligible to own or possess
2 firearms under federal and state law and after confirming with
3 the court that the extreme risk order of protection has
4 terminated or has expired without renewal.

5 4. (1) The petitioner may move to renew the extreme risk
6 order of protection if probable cause is shown that the
7 respondent continues to pose a significant risk of personal
8 injury to him or herself or others by possessing a firearm. The
9 extreme risk order of protection may be renewed for up to one
10 year from the expiration of the preceding extreme risk order of
11 protection. Written notice of a hearing on the motion to renew
12 an extreme risk order of protection shall be given to the
13 respondent by the court.

14 (2) A law enforcement agency shall, if requested, provide
15 prior notice of the return of a firearm to a respondent to family
16 or household members of the respondent.

17 (3) Any firearm surrendered by a respondent pursuant to
18 subsection 2 of this section that remains unclaimed by the lawful
19 owner shall be disposed of in accordance with the law enforcement
20 agency's policies and procedures for the disposal of firearms in
21 police custody.

22 5. The clerk of any court that issues an extreme risk order
23 of protection shall send the Missouri state highway patrol a copy
24 of the order issued by that court within forty-eight hours of the
25 court issuing the order. Upon receiving an extreme risk order of
26 protection, the Missouri state highway patrol shall enter the
27 extreme risk order of protection into the Missouri uniform law
28 enforcement system (MULES) within forty-eight hours of receiving
29 notice of the order.

1 6. (1) A person who refuses or fails to comply with an
2 extreme risk order of protection shall be subject to the criminal
3 contempt powers of the court. The criminal penalty provided for
4 under this subsection may be imposed in addition to a penalty
5 imposed for another criminal offense arising from the same
6 conduct.

7 (2) A person who knowingly and intentionally makes a false
8 statement to the court in the petition or in support of the
9 petition is subject to the contempt powers of the court.

10 7. For the purposes of this section, the following terms
11 mean:

12 (1) "Child", any person under eighteen years of age unless
13 otherwise emancipated;

14 (2) "Extreme risk order of protection", either an ex parte
15 order of protection or full order of protection filed by a family
16 or household member of the respondent or a law enforcement
17 officer or agency;

18 (3) "Ex parte order of protection", an order of protection
19 issued by the court before the respondent has received notice of
20 the petition or an opportunity to be heard on it;

21 (4) "Family" or "household member", spouses, former
22 spouses, any person related by blood or marriage, persons who are
23 presently residing together or have resided together in the past,
24 any person who is or has been in a continuing social relationship
25 of a romantic or intimate nature with the victim, and anyone who
26 has a child in common regardless of whether they have been
27 married or have resided together at any time;

28 (5) "Full order of protection", an order of protection
29 issued after a hearing on the record where the respondent has

1 received notice of the proceedings and has had an opportunity to
2 be heard;

3 (6) "Order of protection", either an ex parte order of
4 protection of a full order of protection;

5 (7) "Petitioner", a family or household member, a law
6 enforcement officer, or a person filing on behalf of a child who
7 has filed a verified petition pursuant to this section;

8 (8) "Respondent", the family or household member against
9 whom a verified petition has been filed or a person served on
10 behalf of a child pursuant to this section."; and

11 Further amend the title and enacting clause accordingly.