

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HCS/House Bill Nos. 85 & 310, Page 1, Section TITLE, Lines 3-5,

2 by striking "the sole purpose of adding additional  
3 protections to the right to bear arms" and inserting in lieu  
4 thereof the following: "firearms"; and

5 Further amend said bill, page 9, Section 1.485, line 7,  
6 by inserting after all of said line the following:

7 "455.050. 1. Any full or ex parte order of protection  
8 granted pursuant to sections 455.010 to 455.085 shall be to  
9 protect the petitioner from domestic violence, stalking, or  
10 sexual assault and may include such terms as the court  
11 reasonably deems necessary to ensure the petitioner's  
12 safety, including but not limited to:

13 (1) Temporarily enjoining the respondent from  
14 committing or threatening to commit domestic violence,  
15 molesting, stalking, sexual assault, or disturbing the peace  
16 of the petitioner;

17 (2) Temporarily enjoining the respondent from entering  
18 the premises of the dwelling unit of the petitioner when the  
19 dwelling unit is:

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

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

24 (c) Jointly owned, leased, rented or occupied by  
25 petitioner and a person other than respondent; provided,  
26 however, no spouse shall be denied relief pursuant to this

27 section by reason of the absence of a property interest in  
28 the dwelling unit; or

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

32 (3) Temporarily enjoining the respondent from  
33 communicating with the petitioner in any manner or through  
34 any medium.

35 2. Mutual orders of protection are prohibited unless  
36 both parties have properly filed written petitions and  
37 proper service has been made in accordance with sections  
38 455.010 to 455.085.

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

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

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

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

51 (4) Award maintenance to petitioner when petitioner  
52 and respondent are lawfully married in accordance with  
53 chapter 452;

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

58 (6) Order the respondent to pay the petitioner's rent  
59 at a residence other than the one previously shared by the

60 parties if the respondent is found to have a duty to support  
61 the petitioner and the petitioner requests alternative  
62 housing;

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

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

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

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

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

78 (12) Order the respondent to pay the cost of medical  
79 treatment and services that have been provided or that are  
80 being provided to the petitioner as a result of injuries  
81 sustained to the petitioner by an act of domestic violence  
82 committed by the respondent.

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

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

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

90 (3) Forward the order to the state highway patrol so  
91 that the state highway patrol can update the respondent's  
92 record in the National Instant Criminal Background Check

93 System (NICS). Upon receiving an order under this  
94 subsection, the state highway patrol shall notify the  
95 Federal Bureau of Investigation within twenty-four hours.

96 5. A verified petition seeking orders for maintenance,  
97 support, custody, visitation, payment of rent, payment of  
98 monetary compensation, possession of personal property,  
99 prohibiting the transfer, encumbrance, or disposal of  
100 property, or payment for services of a shelter for victims  
101 of domestic violence, shall contain allegations relating to  
102 those orders and shall pray for the orders desired.

103 [5.] 6. In making an award of custody, the court shall  
104 consider all relevant factors including the presumption that  
105 the best interests of the child will be served by placing  
106 the child in the custody and care of the nonabusive parent,  
107 unless there is evidence that both parents have engaged in  
108 abusive behavior, in which case the court shall not consider  
109 this presumption but may appoint a guardian ad litem or a  
110 court-appointed special advocate to represent the children  
111 in accordance with chapter 452 and shall consider all other  
112 factors in accordance with chapter 452.

113 [6.] 7. The court shall grant to the noncustodial  
114 parent rights to visitation with any minor child born to or  
115 adopted by the parties, unless the court finds, after  
116 hearing, that visitation would endanger the child's physical  
117 health, impair the child's emotional development or would  
118 otherwise conflict with the best interests of the child, or  
119 that no visitation can be arranged which would sufficiently  
120 protect the custodial parent from further domestic  
121 violence. The court may appoint a guardian ad litem or  
122 court-appointed special advocate to represent the minor  
123 child in accordance with chapter 452 whenever the custodial  
124 parent alleges that visitation with the noncustodial parent  
125 will damage the minor child.

126           [7.] 8. The court shall make an order requiring the  
127 noncustodial party to pay an amount reasonable and necessary  
128 for the support of any child to whom the party owes a duty  
129 of support when no prior order of support is outstanding and  
130 after all relevant factors have been considered, in  
131 accordance with Missouri supreme court rule 88.01 and  
132 chapter 452.

133           [8.] 9. The court may grant a maintenance order to a  
134 party for a period of time, not to exceed one hundred eighty  
135 days. Any maintenance ordered by the court shall be in  
136 accordance with chapter 452.

137           [9.] 10. (1) The court may, in order to ensure that a  
138 petitioner can maintain an existing wireless telephone  
139 number or numbers, issue an order, after notice and an  
140 opportunity to be heard, directing a wireless service  
141 provider to transfer the billing responsibility for and  
142 rights to the wireless telephone number or numbers to the  
143 petitioner, if the petitioner is not the wireless service  
144 accountholder.

145           (2) (a) The order transferring billing responsibility  
146 for and rights to the wireless telephone number or numbers  
147 to the petitioner shall list the name and billing telephone  
148 number of the accountholder, the name and contact  
149 information of the person to whom the telephone number or  
150 numbers will be transferred, and each telephone number to be  
151 transferred to that person. The court shall ensure that the  
152 contact information of the petitioner is not provided to the  
153 accountholder in proceedings held under this chapter.

154           (b) Upon issuance, a copy of the full order of  
155 protection shall be transmitted, either electronically or by  
156 certified mail, to the wireless service provider's  
157 registered agent listed with the secretary of state, or  
158 electronically to the email address provided by the wireless

159 service provider. Such transmittal shall constitute  
160 adequate notice for the wireless service provider acting  
161 under this section and section 455.523.

162 (c) If the wireless service provider cannot  
163 operationally or technically effectuate the order due to  
164 certain circumstances, the wireless service provider shall  
165 notify the petitioner within three business days. Such  
166 circumstances shall include, but not be limited to, the  
167 following:

168 a. The accountholder has already terminated the  
169 account;

170 b. The differences in network technology prevent the  
171 functionality of a device on the network; or

172 c. There are geographic or other limitations on  
173 network or service availability.

174 (3) (a) Upon transfer of billing responsibility for  
175 and rights to a wireless telephone number or numbers to the  
176 petitioner under this subsection by a wireless service  
177 provider, the petitioner shall assume all financial  
178 responsibility for the transferred wireless telephone number  
179 or numbers, monthly service costs, and costs for any mobile  
180 device associated with the wireless telephone number or  
181 numbers.

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

190 (4) This section shall not affect the ability of the  
191 court to apportion the assets and debts of the parties as

provided for in law, or the ability to determine the temporary use, possession, and control of personal property.

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

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

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

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

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

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

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

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

224       (2) Inform the respondent of such prohibition in  
225 writing and, if the respondent is present, orally; and  
226       (3) Forward the order to the state highway patrol so  
227 that the state highway patrol can update the respondent's  
228 record in the National Instant Criminal Background Check  
229 System (NICS). Upon receiving an order under this  
230 subsection, the state highway patrol shall notify the  
231 Federal Bureau of Investigation within twenty-four hours.

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

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

240       (2) Award visitation;

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

243       (4) Award maintenance to petitioner when petitioner  
244 and respondent are lawfully married in accordance with  
245 chapter 452;

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

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

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



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

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

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

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

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

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

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

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

(6) The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to

288 other persons, telecommunication devices or transportation  
289 for the purpose of isolation.

290 2. The offense of domestic assault in the fourth  
291 degree is a class A misdemeanor, unless the person has  
292 previously been found guilty of the offense of domestic  
293 assault, of any assault offense under this chapter, or of  
294 any offense against a domestic victim committed in violation  
295 of any county or municipal ordinance in any state, any state  
296 law, any federal law, or any military law which if committed  
297 in this state two or more times would be a violation of this  
298 section, in which case it is a class E felony. The offenses  
299 described in this subsection may be against the same  
300 domestic victim or against different domestic victims.

301 3. Upon a conviction for the offense of domestic  
302 assault in the fourth degree, the court shall forward the  
303 record of conviction to the Missouri state highway patrol so  
304 that the Missouri state highway patrol can update the  
305 offender's record in the National Instant Criminal  
306 Background Check System (NICS). Upon receiving a record  
307 under this subsection, the Missouri state highway patrol  
308 shall notify the Federal Bureau of Investigation within  
309 twenty-four hours.

310 571.070. 1. A person commits the offense of unlawful  
311 possession of a firearm if such person knowingly has any  
312 firearm in his or her possession and:

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

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

320       (3) Such person has been convicted of a misdemeanor  
321 offense of domestic violence under the laws of this state,  
322 or of a crime under the laws of any state or of the United  
323 States that if committed in this state would be a  
324 misdemeanor offense of domestic violence.

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

329       3. The provisions of subdivision (1) of subsection 1  
330 of this section shall not apply to the possession of an  
331 antique firearm.

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

333       (1) "Family or household member", the same meaning as  
334 such term is defined under section 455.010;

335       (2) "Misdemeanor offense of domestic violence":

336       (a) Domestic assault in the fourth degree under  
337 section 565.076; or

338       (b) Any misdemeanor offense committed by a family or  
339 household member of the victim that involves the use or  
340 attempted use of a physical force or the threatened use of a  
341 deadly weapon."; and

342       Further amend the title and enacting clause accordingly.