

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 74, Page 1, Section Title, Lines 3-4,

2 by striking the words "a driving while intoxicated diversion
3 program" and inserting in lieu thereof the following:

4 "criminal laws"; and

5 Further amend said bill, page 5, section 557.520, line
6 146 by inserting after all of said line the following:

7 "455.096. 1. In addition to any other jurisdictional
8 grounds provided by law, a court shall have jurisdiction to
9 enter an extreme risk order of protection restraining or
10 enjoining the respondent from possessing any firearms.

11 2. (1) Upon the filing of a verified petition by a
12 law enforcement officer or agency pursuant to this section,
13 and for good cause shown in the petition, the court may
14 immediately issue an ex parte order of protection. An
15 immediate and present danger of the respondent causing
16 personal injury to him or herself or others shall constitute
17 good cause shown for purposes of this section. An ex parte
18 order of protection entered by the court shall take effect
19 when entered and shall remain in effect until there is valid
20 service of process and a hearing is held on the motion
21 within fifteen days of the filing of the petition.

22 (2) Failure to serve an ex parte order of protection
23 on the respondent shall not affect the validity or
24 enforceability of such order. If the respondent is less
25 than eighteen years of age, unless otherwise emancipated,
26 service of process shall be made upon a custodial parent or

27 guardian of the respondent, or upon a guardian ad litem
28 appointed by the court, requiring that the person appear and
29 bring the respondent before the court at the time and place
30 stated.

31 (3) If an ex parte order is entered and the respondent
32 is less than eighteen years of age, the court shall transfer
33 the case to juvenile court for a hearing on a full order of
34 protection. The court shall appoint a guardian ad litem for
35 any such respondent not represented by a parent or guardian.

36 (4) The law enforcement officer or agency shall be
37 responsible for providing notice to a family or household
38 member of the respondent and to any known third party who
39 may be at risk of violence. The notice shall state that the
40 law enforcement officer or agency intends to petition the
41 court for an extreme risk order of protection or has already
42 done so, and include referrals to appropriate resources,
43 including mental health, domestic violence, and counseling
44 resources. The law enforcement officer or agency shall
45 attest in the petition to having provided such notice, or
46 attest to the steps that shall be taken to provide such
47 notice.

48 3. Upon issuance of any ex parte order of protection
49 under subsection 2 of this section, the court shall order
50 the respondent to surrender to the local law enforcement
51 agency where the respondent resides, all firearms in the
52 respondent's custody, control, or possession. The law
53 enforcement officer serving any ex parte order of protection
54 shall provide the respondent to the order an opportunity to
55 comply with the order by surrendering all firearms in his or
56 her custody, control, or possession. If the respondent does
57 not comply, the law enforcement officer serving the order
58 shall conduct a lawful search and seizure of any firearms of
59 the respondent and in any area where probable cause exists

60 that a firearm to be surrendered pursuant to the order is
61 located. The law enforcement agency shall hold all
62 surrendered firearms until a hearing is held on the petition
63 for the extreme risk order of protection.

64 4. Not later than fifteen days after the filing of a
65 verified petition that meets the requirements of this
66 section, a hearing shall be held unless the court deems, for
67 good cause shown, that a continuance should be granted. At
68 the hearing, if the law enforcement officer or agency has
69 proved the allegation that the respondent poses a
70 significant danger to him or herself or others by a
71 preponderance of the evidence, the court shall issue a full
72 extreme risk order of protection for a period of time of one
73 year.

74 5. Upon issuance of any full extreme risk order of
75 protection under subsection 4 of this section, the court
76 shall order the respondent to surrender to the local law
77 enforcement agency where the respondent resides, all
78 firearms in the respondent's custody, control, or
79 possession. If the respondent has been identified in the
80 petition as being required to carry a firearm as a condition
81 of the respondent's employment, the court shall notify the
82 respondent's employer of the existence of the order. If the
83 respondent holds a concealed carry permit pursuant to
84 section 571.101, the court shall order a revocation of the
85 concealed carry permit.

86 (1) The law enforcement officer serving any extreme
87 risk order of protection shall provide the respondent to the
88 order an opportunity to comply with the order by
89 surrendering all firearms in his or her custody, control, or
90 possession. If the respondent does not comply, the law
91 enforcement officer serving the order shall:

92 (a) Conduct a lawful search of the respondent and any
93 area where probable cause exists that a firearm to be
94 surrendered pursuant to the order is located; and

95 (b) Take possession of all firearms belonging to the
96 respondent that are surrendered, in plain sight, or
97 discovered pursuant to a lawful search conducted pursuant to
98 paragraph (a) of this subdivision.

99 (2) If personal service by a law enforcement officer
100 is not possible, or not required because the respondent was
101 present at the extreme risk order of protection hearing, the
102 respondent shall surrender the firearms in a safe manner to
103 the control of the local law enforcement agency within forty-
104 eight hours of being served with the order by alternate
105 service or within forty-eight hours of the hearing or final
106 decision at which the respondent was present.

107 (3) At the time of surrender, a law enforcement
108 officer taking possession of a firearm shall issue a receipt
109 identifying all firearms that have been surrendered and
110 provide a copy of the receipt to the respondent. Within
111 seventy-two hours after service of the order, the officer
112 serving the order shall file the original receipt with the
113 court and shall ensure that his or her law enforcement
114 agency retains a copy of the receipt.

115 (4) Upon the sworn statement or testimony of any law
116 enforcement officer alleging that the respondent has failed
117 to comply with the surrender of firearms as required by an
118 order issued under this subsection and subsection 3 of this
119 section, the court shall determine whether probable cause
120 exists to believe that the respondent has failed to
121 surrender all firearms in his or her possession, custody, or
122 control. If probable cause exists, the court shall issue a
123 warrant describing the firearms and authorizing a search of
124 the locations where the firearms are reasonably believed to

125 be and the seizure of any firearms discovered pursuant to
126 such search.

127 (5) If a person other than the respondent claims title
128 to any firearms surrendered pursuant to this subsection and
129 subsection 3 of this section, and he or she is determined by
130 the law enforcement agency to be the lawful owner of the
131 firearm, the firearm shall be returned to him or her,
132 provided that:

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

137 (b) The firearm is not otherwise unlawfully possessed
138 by the owner.

139 (6) A respondent to an extreme risk order of
140 protection may file a motion to modify or rescind that order
141 of protection. The respondent may request a hearing on such
142 a motion with the court that issued the original extreme
143 risk order of protection. The court shall conduct a hearing
144 on the motion to modify or rescind an extreme risk order of
145 protection within fifteen days after the motion is filed.
146 At the hearing, if the respondent has proved by a
147 preponderance of the evidence that the extreme risk order of
148 protection must be modified or rescinded, the court shall
149 modify or rescind the extreme risk order of protection.

150 6. If an extreme risk order of protection is
151 terminated or expires without renewal, a law enforcement
152 agency holding any firearm that has been surrendered
153 pursuant to subsections 3 and 5 of this section shall return
154 any surrendered firearm requested by a respondent only after
155 confirming, through a background check administered by the
156 state highway patrol under section 43.543, that the
157 respondent is currently eligible to own or possess firearms

158 under federal and state law and after confirming with the
159 court that the extreme risk order of protection has
160 terminated or has expired without renewal.

161 7. (1) The law enforcement officer or agency may
162 renew the extreme risk order of protection if probable cause
163 is shown that the respondent continues to pose a significant
164 risk of personal injury to him or herself or others by
165 possessing a firearm. The extreme risk order of protection
166 may be renewed for up to one year from the expiration of the
167 preceding extreme risk order of protection. Written notice
168 of a hearing on the motion to renew an extreme risk order of
169 protection shall be given to the respondent by the court.

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

173 (3) Any firearm surrendered by a respondent pursuant
174 to subsections 3 and 5 of this section that remains
175 unclaimed by the lawful owner shall be disposed of in
176 accordance with the law enforcement agency's policies and
177 procedures for the disposal of firearms in police custody.

178 8. The clerk of any court that issues an extreme risk
179 order of protection shall send the Missouri state highway
180 patrol a copy of the order issued by that court within forty-
181 eight hours of the court issuing the order. Upon receiving
182 an extreme risk order of protection, the Missouri state
183 highway patrol shall enter the extreme risk order of
184 protection into the Missouri uniform law enforcement system
185 (MULES) within forty-eight hours of receiving notice of the
186 order.

187 9. A violation of the terms and conditions of an ex
188 parte order of protection pursuant to this section of which
189 the respondent has notice, shall be a class A misdemeanor
190 unless the respondent has previously pleaded guilty to or

191 has been found guilty in any division of the circuit court
192 of violating an ex parte order of protection or a full order
193 of protection within five years of the date of the
194 subsequent violation, in which case the subsequent violation
195 shall be a class E felony. Evidence of prior pleas of
196 guilty or findings of guilt shall be heard by the court out
197 of the presence of the jury prior to submission of the case
198 to the jury. If the court finds the existence of such prior
199 pleas of guilty or finding of guilt beyond a reasonable
200 doubt, the court shall decide the extent or duration of
201 sentence or other disposition and shall not instruct the
202 jury as to the range of punishment or allow the jury to
203 assess and declare the punishment as a part of its verdict.

204 10. A violation of the terms and conditions of a full
205 order of protection pursuant to this section shall be a
206 class A misdemeanor, unless the respondent has previously
207 pleaded guilty to or has been found guilty in any division
208 of the circuit court of violating an ex parte order of
209 protection or a full order of protection within five years
210 of the date of the subsequent violation, in which case the
211 subsequent violation shall be a class E felony. Evidence of
212 prior pleas of guilty or findings of guilt shall be heard by
213 the court out of the presence of the jury prior to
214 submission of the case to the jury. If the court finds the
215 existence of such prior plea of guilty or finding of guilt
216 beyond a reasonable doubt, the court shall decide the extent
217 or duration of the sentence or other disposition and shall
218 not instruct the jury as to the range of punishment or allow
219 the jury to assess and declare the punishment as a part of
220 its verdict. For the purposes of this subsection, in
221 addition to the notice provided by actual service of the
222 order, a party is deemed to have notice of an order of
223 protection if:

224 (1) The law enforcement officer responding to a call
225 of a reported violation of an order of protection presented
226 a copy of the order of protection to the respondent; or

227 (2) Notice is given by actual communication to the
228 respondent in a manner reasonably likely to advise the
229 respondent."; and

230 Further amend the title and enacting clause accordingly.