

HB 646 -- FIREARMS

SPONSOR: Newman

This bill allows any individual to file an application with a court for a gun violence restraining order which bans the possession and use of all types of firearms based on specified criteria. The burden of proof for issuing an order is clear and convincing evidence of a significant risk of harm to himself or herself or others. The court may examine the petitioner and any witnesses the petitioner produces under oath and consider other specified information in determining whether to issue an order. This bill specifies the information that must be included in a gun violence restraining order.

The bill requires the law enforcement office serving the order to inform the individual that he or she may submit one written request for a hearing at any time during the effective period of the order and provide him or her with the hearing request form.

This bill allows a gun seizure warrant to be issued when there is probable cause to believe that the individual issued the restraining order possesses or owns a firearm, rifle, or shotgun. The warrant must direct the law enforcement officer to seize the specified firearm. Certain restrictions on search and seizure apply based on ownership criteria and whether the guns are stored in a safe. Criteria for determining whether jointly owned guns may be seized are provided in the bill. A hearing is required no later than 14 days after the execution of the restraining order and seizure warrant. An order prohibiting the individual from purchasing, owning, possessing, or controlling a firearm, rifle, or shotgun cannot be extended longer than one year unless it is renewed by a judge after a new hearing as specified in the bill.

The bill requires the court to notify the Missouri Uniform Law Enforcement System (MULES) of a gun violence restraining order or an order restoring the individual's right to own or possess a firearm no later than the next business day after the order is issued.

If the individual is prohibited from purchasing, owning, possessing or controlling a firearm, rifle, or shotgun for a period of one year or more by any other provision of state or federal law a hearing is not required and the court must issue an order to hold the firearm until the individual is no longer prohibited from owning a firearm or it is disposed of by the law enforcement agency as specified in the bill.

The bill specifies criteria for seizing firearms discovered in

plain sight during specified police investigations involving domestic violence or gun violence. Firearms may be held for 14 days after a proceeding on domestic violence and returned unless there is an order issued to surrender the firearm.

This bill specifies that it is unlawful for an individual to possess a firearm if he or she is subject to a court order prohibiting stalking, harassment, or threatening bodily injury to a household member or a family member or their children and the order includes a finding that there is a credible threat to the physical safety of these individuals or otherwise prohibits physical aggression against them. It is also unlawful to possess a firearm if he or she is subject to an order of protection under Chapter 455, RSMo, has been found guilty or plead guilty to the misdemeanor offense of domestic violence, or has been found guilty of or plead guilty to a misdemeanor sexual offense. A violation will be a class D felony until December 31, 2016, and a class E felony thereafter.