

HB 1595 -- FIREARMS

SPONSOR: Newman

This bill establishes a gun violence restraining order and gun violence seizure warrant and prohibits a certain person involved in domestic violence from possessing a firearm.

Section 571.600, RSMo

Defines a gun seizure warrant and gun violence restraining order as those terms are used in Sections 571.600 to 571.620.

Section 571.605

This bill allows any individual to file an application with the court for a gun violence restraining order which bans the possession and use of all types of firearms based on specified criteria. 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.

Section 571.610

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. 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.

Section 571.615

A hearing is required no later than 14 days after the execution of the restraining order and seizure warrant. The state's burden of proof is by clear and convincing evidence. 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.

#### Section 571.620

When probable cause exists to believe an individual subject to a gun violence restraining order continues to pose a significant risk of injury to himself or herself, or others, the restraining order may be renewed by the court's own motion or the request of another person.

#### Section 571.635

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.

#### Section 571.640

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, 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.

This bill is similar to HB 646 (2015).