

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2232, Page 5, Section 162.068, Line 61, by inserting after all of said line
2 the following:

3
4 "571.070. 1. A person commits the offense of unlawful possession of a firearm if such
5 person knowingly has any firearm in his or her possession and:

6 (1) Such person has been convicted of a felony under the laws of this state, or of a crime
7 under the laws of any state or of the United States which, if committed within this state, would be a
8 felony; or

9 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged
10 condition, is subject to an extreme risk protection order issued under the provisions of sections
11 571.750 to 571.766, or is currently adjudged mentally incompetent.

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

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

15 571.750. 1. The provisions of sections 571.750 to 571.766 shall be known and may be cited
16 as the "Extreme Risk Protection Order Act".

17 2. For purposes of sections 571.750 to 571.766, the following terms mean:

18 (1) "Dating relationship", a relationship that consists of frequent, intimate associations
19 primarily characterized by the expectation of affectional involvement. "Dating relationship" does
20 not include a casual relationship or an ordinary fraternization between two persons in a business or
21 social context;

22 (2) "Defendant", the person against whom an extreme risk protection order is requested in a
23 petition under section 571.752;

24 (3) "Extreme risk protection order", an order issued by a court under section 571.756;

25 (4) "Family member", a person who is related to the defendant as any of the following:

26 (a) A parent;

27 (b) A son or daughter;

28 (c) A sibling;

29 (d) A grandparent;

30 (e) A grandchild;

31 (f) An uncle or aunt; or

32 (g) A first cousin;

33 (5) "Federal law enforcement officer", an officer or agent employed by a law enforcement
34 agency of the United States

35 government whose primary responsibility is the enforcement of laws of the United States;

36 (6) "Law enforcement officer", a person who is any of the following:

Action Taken _____ Date _____

1 (a) A peace officer certified by the Missouri peace officer standards and training
2 commission;

3 (b) A sheriff;

4 (c) A deputy sheriff;

5 (d) A member of the Missouri state highway patrol; or

6 (e) A federal law enforcement officer;

7 (7) "Plaintiff", the person who requests an extreme risk protection order in an action under
8 section 571.752.

9 (8) "Restrained person", the person against whom an extreme risk protection order has been
10 issued and is in effect.

11 571.752. 1. A person described in subsection 2 of this section may file a petition with the
12 circuit court requesting the court to enter an extreme risk protection order. The court may prescribe
13 the manner and form of the petition.

14 2. Any of the following persons may file a petition under this section:

15
16 (1) The spouse of the defendant;

17 (2) A former spouse of the defendant;

18 (3) A person who has a child in common with the defendant;

19 (4) A person who has or has had a dating relationship with the defendant;

20 (5) A person who resides or has resided in the same household with the defendant;

21 (6) A family member of the defendant; or

22 (7) Another person who has a close relationship with the defendant. If the plaintiff files a
23 petition under this subdivision, the plaintiff shall state in the petition sufficient facts to allow the
24 court to determine whether the person has a close relationship with the defendant.

25 3. A person who files a petition under this section shall do so by filing an affidavit signed
26 by the petitioner under oath. The petition shall state facts showing that issuance of an extreme risk
27 protection order is necessary because the defendant poses a significant risk of personal injury to
28 himself or herself or others by possessing a firearm.

29 4. If the plaintiff knows that the defendant is licensed to carry a concealed weapon and is
30 required to carry a weapon as a condition of his or her employment, a law enforcement officer, a
31 local corrections officer, or an employee of the department of corrections, who carries a firearm
32 during the normal course of his or her employment, the plaintiff shall state that in the petition.

33 5. If the plaintiff requests the court to issue an order seizing firearms owned by the
34 defendant, the plaintiff shall identify in the petition the firearms that the plaintiff knows are in the
35 possession of the defendant.

36 571.754. 1. In an action brought under section 571.752, the court may issue an extreme risk
37 protection order if it determines that there is reasonable cause to believe that the defendant poses a
38 significant risk of personal injury to himself or herself or others by possessing a firearm. In
39 determining whether reasonable cause exists, the court shall consider all of the following:

40 (1) Testimony, documents, or other evidence offered in support of the request for the
41 extreme risk protection order;

42 (2) Whether the defendant has previously inflicted or threatened to inflict personal injury on
43 himself or herself or others; and

44 (3) Any other facts that the court believes are relevant.

45 2. If the plaintiff filing the petition under section 571.752 is a person described in
46 subdivision (7) of subsection 2 of section 571.752, the court shall not issue the extreme risk
47 protection order unless it determines that the plaintiff has a close enough relationship with the
48 defendant to justify the issuance of the order.

1 3. The court in an action under section 571.752 may issue an extreme risk protection order
2 without written or oral notice to the defendant if it determines that clear and convincing evidence
3 has been submitted, under oath or affirmation, that irreparable injury will result from the delay
4 required to effectuate notice or that the notice will itself precipitate adverse action before an extreme
5 risk protection order can be issued.

6 4. A restrained person under an order issued under subsection 3 of this section may file a
7 motion to modify or rescind the order and request a hearing under the rules of the Missouri supreme
8 court. The motion to modify or rescind the order shall be filed within fourteen days after the order
9 is served on the restrained person or after the restrained person receives actual notice of the order,
10 unless good cause is shown for filing the motion after the fourteen days have elapsed.

11 5. The court shall conduct a hearing on a motion under subsection 4 of this section within
12 fourteen days after the motion is filed. If the plaintiff is a person described in subdivision (7) of
13 subsection 2 of section 571.752, the court shall conduct a hearing on a motion under subsection 4 of
14 this section within five days after the motion is filed.

15 571.756. 1. If the court determines under section 571.754 that an extreme risk protection
16 order should be issued, the court shall include all of the following provisions in the order:

17 (1) That the restrained person shall not purchase or possess a firearm;

18 (2) If the order is issued under subsection 3 of section 571.754, a statement that the
19 restrained person may file a motion to modify or rescind the order and request a hearing within
20 fourteen days after the restrained person is served with or receives actual notice of the order and that
21 motion forms and filing instructions are available from the clerk of the court;

22 (3) A designation of the law enforcement agency that is responsible for entering the order
23 into the Missouri uniform law enforcement system;

24 (4) A statement that violation of the order will subject the restrained person to immediate
25 arrest and the civil and
26 criminal contempt powers of the court, and that if the restrained person is found guilty of criminal
27 contempt, he or she will be imprisoned for not more than one hundred eighty days and may be fined
28 not more than one thousand dollars; and

29 (5) An expiration date that is not more than one year from the date of issuance.

30 2. An extreme risk protection order is effective and enforceable immediately after it is
31 served on the restrained person or after the restrained person receives actual notice of the order. The
32 order may be enforced anywhere in this state by a law enforcement agency that receives a true copy
33 of the order, is shown a copy of it, or has verified its existence on the Missouri uniform law
34 enforcement system.

35 571.758. The clerk of a court that issues an extreme risk protection order shall do all of the
36 following immediately after issuance and without requiring a proof of service on the restrained
37 person:

38 (1) Provide a true copy of the order to the law enforcement agency designated under
39 subdivision (3) of subsection 1 of section 571.756;

40 (2) Provide the plaintiff with at least two true copies of the order;

41 (3) If the restrained person is identified in the petition as a person described in subsection 4
42 of section 571.752, notify the person's employer, if known, of the existence of the order; and

43 (4) Inform the plaintiff that the plaintiff may take a true copy of the order to the law
44 enforcement agency designated under subdivision (3) of subsection 1 of section 571.756 to be
45 immediately entered into the Missouri uniform law enforcement system.

46 571.760. 1. An extreme risk protection order shall be served on the restrained person by
47 any method allowed under Missouri court rules. If the restrained person has not been served, a law
48 enforcement officer or clerk of the court who knows that the order exists may, at any time, serve the

1 restrained person with a true copy of the order or advise the restrained person of the existence of the
2 order, the specific conduct enjoined, the penalties for violating the order, and where the restrained
3 person may obtain a copy of the order.

4 2. The person who serves an extreme risk protection order or gives oral notice of the order
5 shall file proof of service or proof of oral notice with the clerk of the court that issued the order.
6 The clerk of the court shall immediately notify the law enforcement agency designated under
7 subdivision (3) of subsection 1 of section 571.756 if either of the following occurs:

8 (1) The clerk of the court receives proof that the restrained person has been served; or

9 (2) The order is rescinded, modified, or extended.

10 571.762. 1. A law enforcement agency designated in an extreme risk protection order under
11 subdivision (3) of subsection 1 of section 571.756 that receives a true copy of the order shall
12 immediately and without requiring proof of service enter the order into the Missouri uniform law
13 enforcement system.

14 2. A law enforcement agency that receives information under subsection 2 of section
15 571.760 shall enter the information into the Missouri uniform law enforcement system.

16 3. If an extreme risk protection order has not been served on the restrained person, a law
17 enforcement agency or officer responding to a call alleging a violation of the order shall serve the
18 restrained person with a true copy of the order or advise the restrained person of the existence of the
19 order, the specific conduct enjoined, the penalties for violating the order, and where the restrained
20 person may obtain a copy of the order.

21 4. Subject to subsection 5 of this section, the law enforcement officer shall enforce the order
22 and immediately enter or cause to be entered into the Missouri uniform law enforcement system that
23 the restrained person has actual notice of the order. The law enforcement officer also shall comply
24 with subsection 2 of section 571.760.

25 5. In the circumstances described in subsections 3 and 4 of this section, the law enforcement
26 officer shall give the restrained person an opportunity to comply with the extreme risk protection
27 order before the law enforcement officer makes a custodial arrest for violation of the order. The
28 failure by the restrained person to immediately comply with the order is grounds for an immediate
29 custodial arrest.

30 6. The law enforcement agency ordered to seize a firearm
31 under subsection 2 of section 571.756 may seize a firearm identified in the order from any place or
32 from any person who has possession of the firearm. The law enforcement agency may also seize
33 any other firearms discovered that are owned by or in the possession of the restrained person if so
34 provided in the extreme risk protection order, or if allowed under other applicable law.

35 7. A law enforcement officer who seizes a firearm under subsection 6 of this section shall
36 give a receipt for the firearm to the person from whom it was taken, specifying the firearm in detail.
37 If no person is present at the time of seizure, the officer shall leave the receipt in the place where he
38 or she found the firearm.

39 8. The law enforcement agency that seizes a firearm under subsection 6 of this section shall
40 retain the firearm subject to order of the court that issued the extreme risk protection order under
41 which the firearm was seized. In addition to any other order that the court determines is
42 appropriate, the court shall order that the firearm be returned to the restrained person when the
43 restrained person is no longer prohibited from owning a firearm or that the firearm be transferred to
44 a licensed firearm dealer if the restrained person sells or transfers ownership of the firearm to the
45 dealer.

46 9. If the location to be searched during the seizure of a firearm under subsection 6 of this
47 section is jointly occupied by multiple persons, a firearm is located during the search, and it is
48 determined that the firearm is owned by a person other than the restrained person, the law

1 enforcement agency shall not seize the firearm if all of the following conditions are satisfied:

2 (1) The firearm is stored so that the restrained person does not have access to or control of
3 the firearm;

4 (2) There is no evidence of unlawful possession of the firearm by the owner.

5 10. If the location to be searched during the seizure of a firearm under subsection 6 of this
6 section is jointly occupied by multiple persons, a gun safe is located at the location, it is determined
7 that the gun safe is owned by a person other than the restrained person, and a valid search warrant
8 has not been obtained, the law enforcement agency shall not search the gun safe except in the
9 owner's presence or with the owner's consent.

10 11. If any person other than the restrained person claims title to a firearm seized under
11 subsection 6 of this section, the firearm shall be returned to the claimant if the court determines that
12 the claimant is the lawful owner.

13 571.764. The plaintiff may move the court to issue, or the court on its own motion may
14 issue, one or more extended extreme risk protection orders, each effective for up to one year after
15 the expiration of the preceding order. The court shall only issue an extended order if there is
16 probable cause to believe that the restrained person continues to pose a significant risk of personal
17 injury to himself or herself or others by possessing a firearm. The plaintiff or the court, as
18 applicable, shall give the restrained person written notice of a hearing on a motion to extend the
19 order.

20 571.766. 1. A person who refuses or fails to comply with an extreme risk protection order
21 is subject to the criminal contempt powers of the court and, if found guilty, may be imprisoned for
22 not more than one hundred eighty days or may be fined not more than one thousand dollars, or both.
23 The criminal penalty provided for under this section may be imposed in addition to a penalty
24 imposed for another criminal offense arising from the same conduct.

25 2. An extreme risk protection order may also be enforced under chapter 455.

26 3. A plaintiff who knowingly and intentionally makes a false statement to the court in the
27 petition or in support of the petition is subject to the contempt powers of the court."; and

28
29 Further amend said bill by amending the title, enacting clause, and intersectional references
30 accordingly.