

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2276**  
**99TH GENERAL ASSEMBLY**

6139H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 455.050, 565.074, 565.076, and 571.070, RSMo, and to enact in lieu thereof four new sections relating to unlawful possession of firearms, with penalty provisions and an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 455.050, 565.074, 565.076, and 571.070, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 455.050, 565.074, 565.076,  
3 and 571.070, to read as follows:

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

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

7 (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit  
8 of the petitioner when the dwelling unit is:

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

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

11 (c) Jointly owned, leased, rented or occupied by petitioner and a person other than  
12 respondent; provided, however, no spouse shall be denied relief pursuant to this section by  
13 reason of the absence of a property interest in the dwelling unit; or

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (3) Temporarily enjoining the respondent from communicating with the petitioner in any  
17 manner or through any medium.

18 2. Mutual orders of protection are prohibited unless both parties have properly filed  
19 written petitions and proper service has been made in accordance with sections 455.010 to  
20 455.085.

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

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

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

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

28 (4) Award maintenance to petitioner when petitioner and respondent are lawfully married  
29 in accordance with chapter 452;

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

33 (6) Order the respondent to pay the petitioner's rent at a residence other than the one  
34 previously shared by the parties if the respondent is found to have a duty to support the petitioner  
35 and the petitioner requests alternative housing;

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

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

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

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

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

46 (12) Order the respondent to pay the cost of medical treatment and services that have  
47 been provided or that are being provided to the petitioner as a result of injuries sustained to the  
48 petitioner by an act of domestic violence committed by the respondent;

49 **(13) Prohibit the respondent from possessing or purchasing firearms while the**  
50 **order of protection is in effect.**

51           4. A verified petition seeking orders for maintenance, support, custody, visitation,  
52 payment of rent, payment of monetary compensation, possession of personal property,  
53 prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a  
54 shelter for victims of domestic violence, shall contain allegations relating to those orders and  
55 shall pray for the orders desired.

56           5. In making an award of custody, the court shall consider all relevant factors including  
57 the presumption that the best interests of the child will be served by placing the child in the  
58 custody and care of the nonabusive parent, unless there is evidence that both parents have  
59 engaged in abusive behavior, in which case the court shall not consider this presumption but may  
60 appoint a guardian ad litem or a court-appointed special advocate to represent the children in  
61 accordance with chapter 452 and shall consider all other factors in accordance with chapter 452.

62           6. The court shall grant to the noncustodial parent rights to visitation with any minor  
63 child born to or adopted by the parties, unless the court finds, after hearing, that visitation would  
64 endanger the child's physical health, impair the child's emotional development or would  
65 otherwise conflict with the best interests of the child, or that no visitation can be arranged which  
66 would sufficiently protect the custodial parent from further domestic violence. The court may  
67 appoint a guardian ad litem or court-appointed special advocate to represent the minor child in  
68 accordance with chapter 452 whenever the custodial parent alleges that visitation with the  
69 noncustodial parent will damage the minor child.

70           7. The court shall make an order requiring the noncustodial party to pay an amount  
71 reasonable and necessary for the support of any child to whom the party owes a duty of support  
72 when no prior order of support is outstanding and after all relevant factors have been considered,  
73 in accordance with Missouri supreme court rule 88.01 and chapter 452.

74           8. The court may grant a maintenance order to a party for a period of time, not to exceed  
75 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with  
76 chapter 452.

77           9. (1) The court may, in order to ensure that a petitioner can maintain an existing  
78 wireless telephone number or numbers, issue an order, after notice and an opportunity to be  
79 heard, directing a wireless service provider to transfer the billing responsibility for and rights to  
80 the wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless  
81 service account holder.

82           (2) (a) The order transferring billing responsibility for and rights to the wireless  
83 telephone number or numbers to the petitioner shall list the name and billing telephone number  
84 of the account holder, the name and contact information of the person to whom the telephone  
85 number or numbers will be transferred, and each telephone number to be transferred to that

86 person. The court shall ensure that the contact information of the petitioner is not provided to  
87 the accountholder in proceedings held under this chapter.

88 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either  
89 electronically or by certified mail, to the wireless service provider's registered agent listed with  
90 the secretary of state, or electronically to the email address provided by the wireless service  
91 provider. Such transmittal shall constitute adequate notice for the wireless service provider  
92 acting under this section and section 455.523.

93 (c) If the wireless service provider cannot operationally or technically effectuate the  
94 order due to certain circumstances, the wireless service provider shall notify the petitioner within  
95 three business days. Such circumstances shall include, but not be limited to, the following:

96 a. The accountholder has already terminated the account;

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

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

100 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone  
101 number or numbers to the petitioner under this subsection by a wireless service provider, the  
102 petitioner shall assume all financial responsibility for the transferred wireless telephone number  
103 or numbers, monthly service costs, and costs for any mobile device associated with the wireless  
104 telephone number or numbers.

105 (b) This section shall not preclude a wireless service provider from applying any routine  
106 and customary requirements for account establishment to the petitioner as part of this transfer  
107 of billing responsibility for a wireless telephone number or numbers and any devices attached  
108 to that number or numbers including, but not limited to, identification, financial information, and  
109 customer preferences.

110 (4) This section shall not affect the ability of the court to apportion the assets and debts  
111 of the parties as provided for in law, or the ability to determine the temporary use, possession,  
112 and control of personal property.

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

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

565.074. 1. A person commits the offense of domestic assault in the third degree if:

2 (1) He or she attempts to cause physical injury or knowingly causes physical pain or  
3 illness to a domestic victim~~[,as]~~ ; or

4           **(2) He or she attempts to cause physical injury or recklessly causes physical injury**  
 5 **to a domestic victim by means of a deadly weapon or dangerous instrument;**

6           **(3) He or she recklessly engages in conduct that creates a substantial risk of death**  
 7 **or serious physical injury to a domestic victim;**

8

9 For the purposes of this section, the term "domestic victim" ~~[is defined]~~ **shall have the same**  
 10 **meaning as** under section 565.002.

11           2. The offense of domestic assault in the third degree is a class E felony.

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

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

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

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

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

12           ~~—(5)]~~ (4) The person knowingly causes physical contact with such domestic victim  
 13 knowing he or she will regard the contact as offensive; or

14           ~~[(6)]~~ (5) The person knowingly attempts to cause or causes the isolation of such domestic  
 15 victim by unreasonably and substantially restricting or limiting his or her access to other persons,  
 16 telecommunication devices or transportation for the purpose of isolation.

17           2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless  
 18 the person has previously been found guilty of the offense of domestic assault, of any assault  
 19 offense under this chapter, or of any offense against a domestic victim committed in violation  
 20 of any county or municipal ordinance in any state, any state law, any federal law, or any military  
 21 law which if committed in this state two or more times would be a violation of this section, in  
 22 which case it is a class E felony. The offenses described in this subsection may be against the  
 23 same domestic victim or against different domestic victims.

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

3           (1) Such person has been convicted of a felony under the laws of this state, or of a crime  
 4 under the laws of any state or of the United States which, if committed within this state, would  
 5 be a felony; ~~[or]~~

6 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged  
7 condition, [or] is currently adjudged mentally incompetent, **is illegally or unlawfully in the**  
8 **United States, has been discharged from the Armed Forces under dishonorable conditions,**  
9 **or having been a citizen of the United States, has renounced United States citizenship; or**

10 (3) **Such person has been ordered by a court not to possess or purchase a firearm**  
11 **under section 455.050.**

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.

Section B. Because immediate action is necessary to protect victims of domestic violence  
2 from potential future acts of domestic violence, section A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be  
5 in full force and effect upon its passage and approval.

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