

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SCS/HCS/House Bill No. 16, Page 1, Section TITLE, Line 3,

2 by striking "the offense of unlawful transfer of weapons" and  
 3 inserting in lieu thereof the following: "public safety"; and

4 Further amend said bill, page 2, section 571.060, line 28,  
 5 by inserting after all of said line the following:

6 "571.070. 1. A person commits the offense of unlawful  
 7 possession of a firearm if such person knowingly has any firearm  
 8 in his or her possession and:

9 (1) Such person has been convicted of a felony under the  
 10 laws of this state, or of a crime under the laws of any state or  
 11 of the United States which, if committed within this state, would  
 12 be a felony; [or]

13 (2) Such person is a fugitive from justice, is habitually  
 14 in an intoxicated or drugged condition, or is currently adjudged  
 15 mentally incompetent; or

16 (3) Such person is subject to an extreme risk order of  
 17 protection as such term is defined in section 571.074.

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

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

1           571.074. 1. This section creates an extreme risk order of  
2 protection to provide due process procedures for keeping guns out  
3 of the hands of those who may harm themselves or others. The  
4 court may grant an extreme risk order of protection provided  
5 that:

6           (1) A petition for an extreme risk order of protection  
7 shall:

8           (a) Allege that the respondent poses a significant danger  
9 of causing personal injury to self or others by: having in his  
10 or her custody or control, purchasing, possessing, or receiving a  
11 firearm, and be accompanied by an affidavit made under oath  
12 stating the specific statements, actions, or facts that give rise  
13 to a reasonable fear of future dangerous acts by the respondent;

14           (b) Identify the number, types, and locations of any  
15 firearms the petitioner believes to be in the respondent's  
16 current ownership, possession, custody, or control;

17           (c) Identify whether there is a pending lawsuit, complaint,  
18 petition, or other action between the parties to the petition  
19 under the laws of Missouri;

20           (d) Identify if petitioner has actual knowledge that  
21 respondent carries a firearm as a condition of respondent's  
22 employment;

23           (2) Upon the filing of a petition seeking an extreme risk  
24 order of protection and if petitioner proves by a preponderance  
25 of the evidence that an immediate and significant danger exists  
26 of the respondent causing personal injury to self or others by:  
27 having in his or her custody or control, purchasing, possessing,  
28 or receiving a firearm, the court shall immediately issue an ex  
29 parte order of protection. An ex parte order shall be entered by

1 the court on the same day as the filing or the next day the court  
2 is in session. The ex parte order takes effect when entered and  
3 shall remain in effect until there is valid service of process  
4 and a hearing is held on the petition;

5 (3) Upon issuance of any ex parte order of protection under  
6 subdivision (2) of this subsection, the court shall order the  
7 respondent to surrender to the local law enforcement agency where  
8 the respondent resides, all firearms in the respondent's custody,  
9 control, or possession. The law enforcement officer serving any  
10 ex parte order of protection shall provide the respondent to the  
11 order an opportunity to comply with the order by surrendering all  
12 firearms in his or her custody, control, or possession. If the  
13 respondent does not comply, the law enforcement officer serving  
14 the order shall conduct a lawful search and seizure of any  
15 firearms of the respondent and in any area where probable cause  
16 exists that a firearm to be surrendered pursuant to the order is  
17 located. The law enforcement agency shall hold all surrendered  
18 firearms until a hearing is held on the petition for the extreme  
19 risk order of protection.

20 (4) Upon receiving a petition seeking an extreme risk order  
21 of protection, the court shall conduct a hearing on whether to  
22 issue the order within fourteen days after the petition is filed.

23  
24 The court shall make as many as three good faith attempts to  
25 notify the respondent of the hearing once the petition is filed  
26 for the purpose of providing the respondent the opportunity to be  
27 present and represent him or herself at the hearing. Notice may  
28 be made by phone, email, certified mail, or court summons. The  
29 court shall maintain a record of each attempt;

1           (5) At the hearing, if the petitioner has proved the  
2 allegation that the respondent poses a significant danger to him  
3 or herself or others by clear and convincing evidence, the court  
4 shall issue a full extreme risk order of protection for a period  
5 of time of one year;

6           (6) The court clerk or administrator shall verify the terms  
7 of any existing order governing the parties. The court shall not  
8 delay granting relief because of the existence of a pending  
9 action between the parties or the necessity of verifying the  
10 terms of an existing order. A petition for an extreme risk  
11 protection order shall be granted whether or not there is a  
12 pending action between the parties;

13           (7) If the petitioner is a law enforcement officer or  
14 agency, the petitioner shall make a good faith effort to provide  
15 notice to a family or household member of the respondent and to  
16 any known third party who may be at risk of violence. The notice  
17 shall state that the petitioner intends to petition the court for  
18 an extreme risk order of protection or has already done so, and  
19 include referrals to appropriate resources, including mental  
20 health, domestic violence, and counseling resources. The  
21 petitioner shall attest in the petition to having provided such  
22 notice, or attest to the steps that shall be taken to provide  
23 such notice;

24           (8) If the petition states that disclosure of the  
25 petitioner's address would risk harm to the petitioner or any  
26 member of the petitioner's family or household, the petitioner's  
27 address shall be omitted from all documents filed with the court.  
28 If the petitioner has not disclosed an address under this  
29 subsection, the petitioner shall designate an alternative address

1 at which the respondent may serve notice of any motions. If the  
2 petitioner is a law enforcement officer or agency, the address of  
3 record shall be that of the law enforcement agency;

4 (9) No fees for filing or service of process may be charged  
5 by a court or any public agency to petitioners seeking relief  
6 under this subsection. Petitioners shall be provided the  
7 necessary number of certified copies, forms, and instructional  
8 brochures free of charge;

9 (10) A person is not required to post a bond to obtain  
10 relief in any proceeding under this subsection.

11 2. Upon issuance of any extreme risk order of protection  
12 under this section, the court shall order the respondent to  
13 surrender to the local law enforcement agency where the  
14 respondent resides, all firearms in the respondent's custody,  
15 control, or possession. If the respondent has been identified in  
16 the petition as being required to carry a firearm as a condition  
17 of the respondent's employment, the court shall notify the  
18 respondent's employer of the existence of the order. If the  
19 respondent holds a concealed carry permit pursuant to section  
20 571.101, the court shall order a revocation of the concealed  
21 carry permit.

22 (1) The law enforcement officer serving any extreme risk  
23 order of protection shall provide the respondent to the order an  
24 opportunity to comply with the order by surrendering all firearms  
25 in his or her custody, control, or possession. If the respondent  
26 does not comply, the law enforcement officer serving the order  
27 shall:

28 (a) Conduct a lawful search of the respondent and any area  
29 where probable cause exists that a firearm to be surrendered

1 pursuant to the order is located; and

2 (b) Take possession of all firearms belonging to the  
3 respondent that are surrendered, in plain sight, or discovered  
4 pursuant to a lawful search conducted pursuant to paragraph (a)  
5 of this subdivision.

6 (2) If personal service by a law enforcement officer is not  
7 possible, or not required because the respondent was present at  
8 the extreme risk order of protection hearing, the respondent  
9 shall surrender the firearms in a safe manner to the control of  
10 the local law enforcement agency within forty-eight hours of  
11 being served with the order by alternate service or within  
12 forty-eight hours of the hearing or final decision at which the  
13 respondent was present.

14 (3) At the time of surrender, a law enforcement officer  
15 taking possession of a firearm shall issue a receipt identifying  
16 all firearms that have been surrendered and provide a copy of the  
17 receipt to the respondent. Within seventy-two hours after  
18 service of the order, the officer serving the order shall file  
19 the original receipt with the court and shall ensure that his or  
20 her law enforcement agency retains a copy of the receipt.

21 (4) Upon the sworn statement or testimony of the petitioner  
22 or of any law enforcement officer alleging that the respondent  
23 has failed to comply with the surrender of firearms as required  
24 by an order issued under subsections 1 and 2 of this section, the  
25 court shall determine whether probable cause exists to believe  
26 that the respondent has failed to surrender all firearms in his  
27 or her possession, custody, or control. If probable cause  
28 exists, the court shall issue a warrant describing the firearms  
29 and authorizing a search of the locations where the firearms are

1 reasonably believed to be and the seizure of any firearms  
2 discovered pursuant to such search.

3 (5) If a person other than the respondent claims title to  
4 any firearms surrendered pursuant to subsections 1 and 2 of this  
5 section, and he or she is determined by the law enforcement  
6 agency to be the lawful owner of the firearm, the firearm shall  
7 be returned to him or her, provided that:

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

12 (b) The firearm is not otherwise unlawfully possessed by  
13 the owner.

14 (6) A respondent to an extreme risk order of protection may  
15 file a motion to modify or rescind that order of protection. The  
16 respondent may request a hearing on such a motion with the court  
17 that issued the original extreme risk order of protection. The  
18 court shall conduct a hearing on the motion to modify or rescind  
19 an extreme risk order of protection within fourteen days after  
20 the motion is filed. At the hearing, if the respondent has  
21 proved by clear and convincing evidence that the extreme risk  
22 order of protection must be modified or rescinded, the court  
23 shall modify or rescind the extreme risk order of protection.

24 3. If an extreme risk order of protection is terminated or  
25 expires without renewal, a law enforcement agency holding any  
26 firearm that has been surrendered pursuant to subsections 1 and 2  
27 of this section shall return any surrendered firearm requested by  
28 a respondent only after confirming, through a background check  
29 administered by the state highway patrol under section 43.543,

1 that the respondent is currently eligible to own or possess  
2 firearms under federal and state law and after confirming with  
3 the court that the extreme risk order of protection has  
4 terminated or has expired without renewal.

5 4. (1) The petitioner may move to renew the extreme risk  
6 order of protection if probable cause is shown that the  
7 respondent continues to pose a significant risk of personal  
8 injury to him or herself or others by possessing a firearm. The  
9 extreme risk order of protection may be renewed for up to one  
10 year from the expiration of the preceding extreme risk order of  
11 protection. Written notice of a hearing on the motion to renew  
12 an extreme risk order of protection shall be given to the  
13 respondent by the court.

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

17 (3) Any firearm surrendered by a respondent pursuant to  
18 subsection 2 of this section that remains unclaimed by the lawful  
19 owner shall be disposed of in accordance with the law enforcement  
20 agency's policies and procedures for the disposal of firearms in  
21 police custody.

22 5. The clerk of any court that issues an extreme risk order  
23 of protection shall send the Missouri state highway patrol a copy  
24 of the order issued by that court within forty-eight hours of the  
25 court issuing the order. Upon receiving an extreme risk order of  
26 protection, the Missouri state highway patrol shall enter the  
27 extreme risk order of protection into the Missouri uniform law  
28 enforcement system (MULES) within forty-eight hours of receiving  
29 notice of the order.



1           6. (1) A person who refuses or fails to comply with an  
2 extreme risk order of protection shall be subject to the criminal  
3 contempt powers of the court. The criminal penalty provided for  
4 under this subsection may be imposed in addition to a penalty  
5 imposed for another criminal offense arising from the same  
6 conduct.

7           (2) A person who knowingly and intentionally makes a false  
8 statement to the court in the petition or in support of the  
9 petition is subject to the contempt powers of the court.

10          7. For the purposes of this section, the following terms  
11 mean:

12          (1) "Child", any person under eighteen years of age unless  
13 otherwise emancipated;

14          (2) "Extreme risk order of protection", either an ex parte  
15 order of protection or full order of protection filed by a family  
16 or household member of the respondent or a law enforcement  
17 officer or agency;

18          (3) "Ex parte order of protection", an order of protection  
19 issued by the court before the respondent has received notice of  
20 the petition or an opportunity to be heard on it;

21          (4) "Family" or "household member", spouses, former  
22 spouses, any person related by blood or marriage, persons who are  
23 presently residing together or have resided together in the past,  
24 any person who is or has been in a continuing social relationship  
25 of a romantic or intimate nature with the victim, and anyone who  
26 has a child in common regardless of whether they have been  
27 married or have resided together at any time;

28          (5) "Full order of protection", an order of protection  
29 issued after a hearing on the record where the respondent has

1 received notice of the proceedings and has had an opportunity to  
2 be heard;

3 (6) "Order of protection", either an ex parte order of  
4 protection of a full order of protection;

5 (7) "Petitioner", a family or household member, a law  
6 enforcement officer, or a person filing on behalf of a child who  
7 has filed a verified petition pursuant to this section;

8 (8) "Respondent", the family or household member against  
9 whom a verified petition has been filed or a person served on  
10 behalf of a child pursuant to this section."; and

11 Further amend the title and enacting clause accordingly.