

FIRST REGULAR SESSION

# SENATE BILL NO. 320

96TH GENERAL ASSEMBLY

---

INTRODUCED BY SENATORS LAMPING, SCHMITT, WRIGHT-JONES, McKENNA, RUPP, DEMPSEY, NIEVES,  
KRAUS, CHAPPELLE-NADAL, DIXON, SCHAEFER, LAGER, ENGLER, RIDGEWAY, GREEN, KEHOE,  
SCHAAF, PURGASON, CALLAHAN, JUSTUS, KEAVENY, MUNZLINGER, CUNNINGHAM,  
PEARCE, GOODMAN, BROWN AND WASSON.

Read 1st time February 22, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1450S.02I

---

## AN ACT

To repeal sections 43.545, 211.031, 452.375, 455.010, 455.027, 455.035, 455.040, 455.050, 455.060, 455.085, 455.200, 455.501, 455.513, 455.516, 455.520, 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, and 595.100, RSMo, and to enact in lieu thereof twenty-one new sections relating to domestic violence, with penalty provisions.

---

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

Section A. Sections 43.545, 211.031, 452.375, 455.010, 455.027, 455.035, 2 455.040, 455.050, 455.060, 455.085, 455.200, 455.501, 455.513, 455.516, 455.520, 3 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, and 595.100, RSMo, are 4 repealed and twenty-one new sections enacted in lieu thereof, to be known as 5 sections 43.545, 211.031, 452.375, 455.010, 455.027, 455.035, 455.040, 455.050, 6 455.060, 455.085, 455.200, 455.513, 455.516, 455.520, 455.523, 455.538, 455.543, 7 455.549, 527.290, 565.074, and 595.100, to read as follows:

43.545. The state highway patrol shall include in its voluntary system of 2 reporting for compilation in the "Missouri Crime Index" all reported incidents of 3 domestic violence **as defined in section 455.010**, whether or not an arrest is 4 made. All incidents shall be reported on forms provided by the highway patrol 5 and in a manner prescribed by the patrol. [For purposes of this section only, 6 "domestic violence" shall be defined as any dispute arising between spouses, 7 former spouses, persons related by blood or marriage, individuals who are 8 presently residing together or have resided together in the past and persons who 9 have a child in common regardless of whether they have been married or have 10 resided together at any time.]

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

211.031. 1. Except as otherwise provided in this chapter, the juvenile  
2 court or the family court in circuits that have a family court as provided in  
3 sections 487.010 to 487.190 shall have exclusive original jurisdiction in  
4 proceedings:

5 (1) Involving any child or person seventeen years of age who may be a  
6 resident of or found within the county and who is alleged to be in need of care  
7 and treatment because:

8 (a) The parents, or other persons legally responsible for the care and  
9 support of the child or person seventeen years of age, neglect or refuse to provide  
10 proper support, education which is required by law, medical, surgical or other  
11 care necessary for his or her well-being; except that reliance by a parent,  
12 guardian or custodian upon remedial treatment other than medical or surgical  
13 treatment for a child or person seventeen years of age shall not be construed as  
14 neglect when the treatment is recognized or permitted pursuant to the laws of  
15 this state;

16 (b) The child or person seventeen years of age is otherwise without proper  
17 care, custody or support; or

18 (c) The child or person seventeen years of age was living in a room,  
19 building or other structure at the time such dwelling was found by a court of  
20 competent jurisdiction to be a public nuisance pursuant to section 195.130;

21 (d) The child or person seventeen years of age is a child in need of mental  
22 health services and the parent, guardian or custodian is unable to afford or access  
23 appropriate mental health treatment or care for the child;

24 (2) Involving any child who may be a resident of or found within the  
25 county and who is alleged to be in need of care and treatment because:

26 (a) The child while subject to compulsory school attendance is repeatedly  
27 and without justification absent from school; or

28 (b) The child disobeys the reasonable and lawful directions of his or her  
29 parents or other custodian and is beyond their control; or

30 (c) The child is habitually absent from his or her home without sufficient  
31 cause, permission, or justification; or

32 (d) The behavior or associations of the child are otherwise injurious to his  
33 or her welfare or to the welfare of others; or

34 (e) The child is charged with an offense not classified as criminal, or with  
35 an offense applicable only to children; except that, the juvenile court shall not  
36 have jurisdiction over any child fifteen and one-half years of age who is alleged

37 to have violated a state or municipal traffic ordinance or regulation, the violation  
38 of which does not constitute a felony, or any child who is alleged to have violated  
39 a state or municipal ordinance or regulation prohibiting possession or use of any  
40 tobacco product;

41 (3) Involving any child who is alleged to have violated a state law or  
42 municipal ordinance, or any person who is alleged to have violated a state law or  
43 municipal ordinance prior to attaining the age of seventeen years, in which cases  
44 jurisdiction may be taken by the court of the circuit in which the child or person  
45 resides or may be found or in which the violation is alleged to have occurred;  
46 except that, the juvenile court shall not have jurisdiction over any child fifteen  
47 and one-half years of age who is alleged to have violated a state or municipal  
48 traffic ordinance or regulation, the violation of which does not constitute a felony,  
49 and except that the juvenile court shall have concurrent jurisdiction with the  
50 municipal court over any child who is alleged to have violated a municipal curfew  
51 ordinance, and except that the juvenile court shall have concurrent jurisdiction  
52 with the circuit court on any child who is alleged to have violated a state or  
53 municipal ordinance or regulation prohibiting possession or use of any tobacco  
54 product;

55 (4) For the adoption of a person;

56 (5) For the commitment of a child or person seventeen years of age to the  
57 guardianship of the department of social services as provided by law; **and**

58 **(6) Involving an order of protection pursuant to chapter 455**  
59 **when the respondent is less than seventeen years of age.**

60 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child  
61 or person seventeen years of age who resides in a county of this state shall be  
62 made as follows:

63 (1) Prior to the filing of a petition and upon request of any party or at the  
64 discretion of the juvenile officer, the matter in the interest of a child or person  
65 seventeen years of age may be transferred by the juvenile officer, with the prior  
66 consent of the juvenile officer of the receiving court, to the county of the child's  
67 residence or the residence of the person seventeen years of age for future action;

68 (2) Upon the motion of any party or on its own motion prior to final  
69 disposition on the pending matter, the court in which a proceeding is commenced  
70 may transfer the proceeding of a child or person seventeen years of age to the  
71 court located in the county of the child's residence or the residence of the person  
72 seventeen years of age, or the county in which the offense pursuant to subdivision

73 (3) of subsection 1 of this section is alleged to have occurred for further action;

74 (3) Upon motion of any party or on its own motion, the court in which  
75 jurisdiction has been taken pursuant to subsection 1 of this section may at any  
76 time thereafter transfer jurisdiction of a child or person seventeen years of age  
77 to the court located in the county of the child's residence or the residence of the  
78 person seventeen years of age for further action with the prior consent of the  
79 receiving court;

80 (4) Upon motion of any party or upon its own motion at any time following  
81 a judgment of disposition or treatment pursuant to section 211.181, the court  
82 having jurisdiction of the cause may place the child or person seventeen years of  
83 age under the supervision of another juvenile court within or without the state  
84 pursuant to section 210.570 with the consent of the receiving court;

85 (5) Upon motion of any child or person seventeen years of age or his or  
86 her parent, the court having jurisdiction shall grant one change of judge pursuant  
87 to Missouri Supreme Court Rules;

88 (6) Upon the transfer of any matter, proceeding, jurisdiction or  
89 supervision of a child or person seventeen years of age, certified copies of all legal  
90 and social documents and records pertaining to the case on file with the clerk of  
91 the transferring juvenile court shall accompany the transfer.

92 3. In any proceeding involving any child or person seventeen years of age  
93 taken into custody in a county other than the county of the child's residence or  
94 the residence of a person seventeen years of age, the juvenile court of the county  
95 of the child's residence or the residence of a person seventeen years of age shall  
96 be notified of such taking into custody within seventy-two hours.

97 4. When an investigation by a juvenile officer pursuant to this section  
98 reveals that the only basis for action involves an alleged violation of section  
99 167.031 involving a child who alleges to be home schooled, the juvenile officer  
100 shall contact a parent or parents of such child to verify that the child is being  
101 home schooled and not in violation of section 167.031 before making a report of  
102 such a violation. Any report of a violation of section 167.031 made by a juvenile  
103 officer regarding a child who is being home schooled shall be made to the  
104 prosecuting attorney of the county where the child legally resides.

452.375. 1. As used in this chapter, unless the context clearly indicates  
2 otherwise:

3 (1) "Custody" means joint legal custody, sole legal custody, joint physical  
4 custody or sole physical custody or any combination thereof;

5 (2) "Joint legal custody" means that the parents share the  
6 decision-making rights, responsibilities, and authority relating to the health,  
7 education and welfare of the child, and, unless allocated, apportioned, or decreed,  
8 the parents shall confer with one another in the exercise of decision-making  
9 rights, responsibilities, and authority;

10 (3) "Joint physical custody" means an order awarding each of the parents  
11 significant, but not necessarily equal, periods of time during which a child resides  
12 with or is under the care and supervision of each of the parents. Joint physical  
13 custody shall be shared by the parents in such a way as to assure the child of  
14 frequent, continuing and meaningful contact with both parents;

15 (4) "Third-party custody" means a third party designated as a legal and  
16 physical custodian pursuant to subdivision (5) of subsection 5 of this section.

17 2. The court shall determine custody in accordance with the best interests  
18 of the child. The court shall consider all relevant factors including:

19 (1) The wishes of the child's parents as to custody and the proposed  
20 parenting plan submitted by both parties;

21 (2) The needs of the child for a frequent, continuing and meaningful  
22 relationship with both parents and the ability and willingness of parents to  
23 actively perform their functions as mother and father for the needs of the child;

24 (3) The interaction and interrelationship of the child with parents,  
25 siblings, and any other person who may significantly affect the child's best  
26 interests;

27 (4) Which parent is more likely to allow the child frequent, continuing and  
28 meaningful contact with the other parent;

29 (5) The child's adjustment to the child's home, school, and community;

30 (6) The mental and physical health of all individuals involved, including  
31 any history of abuse of any individuals involved. If the court finds that a pattern  
32 of domestic violence **as defined in section 455.010** has occurred, and, if the  
33 court also finds that awarding custody to the abusive parent is in the best  
34 interest of the child, then the court shall enter written findings of fact and  
35 conclusions of law. Custody and visitation rights shall be ordered in a manner  
36 that best protects the child and any other child or children for whom the parent  
37 has custodial or visitation rights, and the parent or other family or household  
38 member who is the victim of domestic violence from any further harm;

39 (7) The intention of either parent to relocate the principal residence of the  
40 child; and

41 (8) The wishes of a child as to the child's custodian. The fact that a  
42 parent sends his or her child or children to a home school, as defined in section  
43 167.031, shall not be the sole factor that a court considers in determining custody  
44 of such child or children.

45 3. (1) In any court proceedings relating to custody of a child, the court  
46 shall not award custody or unsupervised visitation of a child to a parent if such  
47 parent or any person residing with such parent has been found guilty of, or pled  
48 guilty to, any of the following offenses when a child was the victim:

49 (a) A felony violation of section 566.030, 566.032, 566.040, 566.060,  
50 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111,  
51 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

52 (b) A violation of section 568.020;

53 (c) A violation of subdivision (2) of subsection 1 of section 568.060;

54 (d) A violation of section 568.065;

55 (e) A violation of section 568.080;

56 (f) A violation of section 568.090; or

57 (g) A violation of section 568.175.

58 (2) For all other violations of offenses in chapters 566 and 568 not  
59 specifically listed in subdivision (1) of this subsection or for a violation of an  
60 offense committed in another state when a child is the victim that would be a  
61 violation of chapter 566 or 568 if committed in Missouri, the court may exercise  
62 its discretion in awarding custody or visitation of a child to a parent if such  
63 parent or any person residing with such parent has been found guilty of, or pled  
64 guilty to, any such offense.

65 4. The general assembly finds and declares that it is the public policy of  
66 this state that frequent, continuing and meaningful contact with both parents  
67 after the parents have separated or dissolved their marriage is in the best  
68 interest of the child, except for cases where the court specifically finds that such  
69 contact is not in the best interest of the child, and that it is the public policy of  
70 this state to encourage parents to participate in decisions affecting the health,  
71 education and welfare of their children, and to resolve disputes involving their  
72 children amicably through alternative dispute resolution. In order to effectuate  
73 these policies, the court shall determine the custody arrangement which will best  
74 assure both parents participate in such decisions and have frequent, continuing  
75 and meaningful contact with their children so long as it is in the best interests  
76 of the child.

77           5. Prior to awarding the appropriate custody arrangement in the best  
78 interest of the child, the court shall consider each of the following as follows:

79           (1) Joint physical and joint legal custody to both parents, which shall not  
80 be denied solely for the reason that one parent opposes a joint physical and joint  
81 legal custody award. The residence of one of the parents shall be designated as  
82 the address of the child for mailing and educational purposes;

83           (2) Joint physical custody with one party granted sole legal custody. The  
84 residence of one of the parents shall be designated as the address of the child for  
85 mailing and educational purposes;

86           (3) Joint legal custody with one party granted sole physical custody;

87           (4) Sole custody to either parent; or

88           (5) Third-party custody or visitation:

89           (a) When the court finds that each parent is unfit, unsuitable, or unable  
90 to be a custodian, or the welfare of the child requires, and it is in the best  
91 interests of the child, then custody, temporary custody or visitation may be  
92 awarded to any other person or persons deemed by the court to be suitable and  
93 able to provide an adequate and stable environment for the child. Before the  
94 court awards custody, temporary custody or visitation to a third person under this  
95 subdivision, the court shall make that person a party to the action;

96           (b) Under the provisions of this subsection, any person may petition the  
97 court to intervene as a party in interest at any time as provided by supreme court  
98 rule.

99           6. If the parties have not agreed to a custodial arrangement, or the court  
100 determines such arrangement is not in the best interest of the child, the court  
101 shall include a written finding in the judgment or order based on the public policy  
102 in subsection 4 of this section and each of the factors listed in subdivisions (1) to  
103 (8) of subsection 2 of this section detailing the specific relevant factors that made  
104 a particular arrangement in the best interest of the child. If a proposed custodial  
105 arrangement is rejected by the court, the court shall include a written finding in  
106 the judgment or order detailing the specific relevant factors resulting in the  
107 rejection of such arrangement.

108           7. Upon a finding by the court that either parent has refused to exchange  
109 information with the other parent, which shall include but not be limited to  
110 information concerning the health, education and welfare of the child, the court  
111 shall order the parent to comply immediately and to pay the prevailing party a  
112 sum equal to the prevailing party's cost associated with obtaining the requested

113 information, which shall include but not be limited to reasonable attorney's fees  
114 and court costs.

115           8. As between the parents of a child, no preference may be given to either  
116 parent in the awarding of custody because of that parent's age, sex, or financial  
117 status, nor because of the age or sex of the child.

118           9. Any judgment providing for custody shall include a specific written  
119 parenting plan setting forth the terms of such parenting plan arrangements  
120 specified in subsection 7 of section 452.310. Such plan may be a parenting plan  
121 submitted by the parties pursuant to section 452.310 or, in the absence thereof,  
122 a plan determined by the court, but in all cases, the custody plan approved and  
123 ordered by the court shall be in the court's discretion and shall be in the best  
124 interest of the child.

125           10. Unless a parent has been denied custody rights pursuant to this  
126 section or visitation rights under section 452.400, both parents shall have access  
127 to records and information pertaining to a minor child, including, but not limited  
128 to, medical, dental, and school records. If the parent without custody has been  
129 granted restricted or supervised visitation because the court has found that the  
130 parent with custody or any child has been the victim of domestic violence, as  
131 defined in section [455.200] **455.010**, by the parent without custody, the court  
132 may order that the reports and records made available pursuant to this  
133 subsection not include the address of the parent with custody or the child. Unless  
134 a parent has been denied custody rights pursuant to this section or visitation  
135 rights under section 452.400, any judgment of dissolution or other applicable  
136 court order shall specifically allow both parents access to such records and  
137 reports.

138           11. Except as otherwise precluded by state or federal law, if any  
139 individual, professional, public or private institution or organization denies access  
140 or fails to provide or disclose any and all records and information, including, but  
141 not limited to, past and present dental, medical and school records pertaining to  
142 a minor child, to either parent upon the written request of such parent, the court  
143 shall, upon its finding that the individual, professional, public or private  
144 institution or organization denied such request without good cause, order that  
145 party to comply immediately with such request and to pay to the prevailing party  
146 all costs incurred, including, but not limited to, attorney's fees and court costs  
147 associated with obtaining the requested information.

148           12. An award of joint custody does not preclude an award of child support

149 pursuant to section 452.340 and applicable supreme court rules. The court shall  
150 consider the factors contained in section 452.340 and applicable supreme court  
151 rules in determining an amount reasonable or necessary for the support of the  
152 child.

153 13. If the court finds that domestic violence or abuse, as defined in  
154 [sections] **section** 455.010 [and 455.501,] has occurred, the court shall make  
155 specific findings of fact to show that the custody or visitation arrangement  
156 ordered by the court best protects the child and the parent or other family or  
157 household member who is the victim of domestic violence [or abuse], as defined  
158 in [sections] **section** 455.010 [and 455.501], and any other children for whom  
159 such parent has custodial or visitation rights from any further harm.

455.010. As used in [sections 455.010 to 455.085] **this chapter**, unless  
2 the context clearly indicates otherwise, the following terms shall mean:

3 (1) "Abuse" includes but is not limited to the occurrence of any of the  
4 following acts, attempts or threats against a person who may be protected  
5 pursuant to [sections 455.010 to 455.085] **this chapter**:

6 (a) "Assault", purposely or knowingly placing or attempting to place  
7 another in fear of physical harm;

8 (b) "Battery", purposely or knowingly causing physical harm to another  
9 with or without a deadly weapon;

10 (c) "Coercion", compelling another by force or threat of force to engage in  
11 conduct from which the latter has a right to abstain or to abstain from conduct  
12 in which the person has a right to engage;

13 (d) "Harassment", engaging in a purposeful or knowing course of conduct  
14 involving more than one incident that alarms or causes distress to another adult  
15 and serves no legitimate purpose. The course of conduct must be such as would  
16 cause a reasonable adult to suffer substantial emotional distress and must  
17 actually cause substantial emotional distress to the petitioner. Such conduct  
18 might include, but is not limited to:

19 a. Following another about in a public place or places;

20 b. Peering in the window or lingering outside the residence of another; but  
21 does not include constitutionally protected activity;

22 (e) "Sexual assault", causing or attempting to cause another to engage  
23 involuntarily in any sexual act by force, threat of force, or duress;

24 (f) "Unlawful imprisonment", holding, confining, detaining or abducting  
25 another person against that person's will;

26 (2) "Adult", any person seventeen years of age or older or otherwise  
27 emancipated;

28 (3) **"Child", any person under seventeen years of age unless**  
29 **otherwise emancipated;**

30 (4) "Court", the circuit or associate circuit judge or a family court  
31 commissioner;

32 (5) **"Domestic violence", abuse or stalking, as both terms are**  
33 **defined in this section;**

34 [(4)] (6) "Ex parte order of protection", an order of protection issued by  
35 the court before the respondent has received notice of the petition or an  
36 opportunity to be heard on it;

37 [(5)] (7) "Family" or "household member", spouses, former spouses,  
38 [adults] **any person** related by blood or marriage, [adults] **persons** who are  
39 presently residing together or have resided together in the past, [an adult] **any**  
40 **person** who is or has been in a continuing social relationship of a romantic or  
41 intimate nature with the victim, and [adults who have] **anyone who has** a child  
42 in common regardless of whether they have been married or have resided together  
43 at any time;

44 [(6)] (8) "Full order of protection", an order of protection issued after a  
45 hearing on the record where the respondent has received notice of the proceedings  
46 and has had an opportunity to be heard;

47 [(7)] (9) "Order of protection", either an ex parte order of protection or  
48 a full order of protection;

49 [(8)] (10) **"Pending", exists or for which a hearing date has been**  
50 **set;**

51 (11) "Petitioner", a family or household member [or an adult], **or any**  
52 **person** who has been the victim of stalking, **or a person filing on behalf of**  
53 **a child pursuant to section 455.503** who has filed a verified petition pursuant  
54 to the provisions of section 455.020;

55 [(9)] (12) "Respondent", the family or household member or [adult]  
56 **person** alleged to have committed an act of stalking, against whom a verified  
57 petition has been filed;

58 [(10)] (13) "Stalking" is when [an adult] **any person** purposely and  
59 repeatedly engages in an unwanted course of conduct that causes alarm to  
60 another person when it is reasonable in that person's situation to have been  
61 alarmed by the conduct. As used in this subdivision:

62 (a) "Alarm" means to cause fear of danger of physical harm;

63 (b) "Course of conduct" means a pattern of conduct composed of repeated  
64 acts over a period of time, however short, that serves no legitimate purpose.

65 Such conduct may include, but is not limited to, following the other person or  
66 unwanted communication or unwanted contact; and

67 (c) "Repeated" means two or more incidents evidencing a continuity of  
68 purpose.

455.027. No filing fees, court costs, or bond shall be assessed to the  
2 petitioner in an action commenced pursuant to sections 455.010 to [455.085]  
3 **455.090.**

455.035. 1. Upon the filing of a verified petition pursuant to sections  
2 455.010 to 455.085 and for good cause shown in the petition, the court may  
3 immediately issue an ex parte order of protection. An immediate and present  
4 danger of abuse to the petitioner shall constitute good cause for purposes of this  
5 section. An ex parte order of protection entered by the court shall take effect  
6 when entered and shall remain in effect until there is valid service of process and  
7 a hearing is held on the motion.

8 2. Failure to serve an ex parte order of protection on the respondent shall  
9 not affect the validity or enforceability of such order.

10 **3. If an ex parte order is entered and the allegations in the**  
11 **petition would give rise to jurisdiction under section 211.031 because**  
12 **the respondent is less than seventeen years of age, the court shall**  
13 **transfer the case to juvenile court for a hearing on a full order of**  
14 **protection.**

455.040. 1. Not later than fifteen days after the filing of a petition  
2 pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court  
3 deems, for good cause shown, that a continuance should be granted. At the  
4 hearing, if the petitioner has proved the allegation of abuse or stalking by a  
5 preponderance of the evidence, the court shall issue a full order of protection for  
6 a period of time the court deems appropriate, except that the protective order  
7 shall be valid for at least one hundred eighty days and not more than one  
8 year. Upon motion by the petitioner, and after a hearing by the court, the full  
9 order of protection may be renewed for a period of time the court deems  
10 appropriate, except that the protective order shall be valid for at least one  
11 hundred eighty days and not more than one year from the expiration date of the  
12 originally issued full order of protection. **The court may, upon finding that**

13 **it is in the best interest of the parties, include a provision that any full**  
14 **order of protection for one year shall automatically renew unless the**  
15 **respondent requests a hearing within thirty days of the expiration of**  
16 **the order.** If for good cause a hearing cannot be held on the motion to renew **or**  
17 **the objection to an automatic renewal of** the full order of protection prior  
18 to the expiration date of the originally issued full order of protection, an ex parte  
19 order of protection may be issued until a hearing is held on the motion. **When**  
20 **an automatic renewal is not authorized,** upon motion by the petitioner, and  
21 after a hearing by the court, the second full order of protection may be renewed  
22 for an additional period of time the court deems appropriate, except that the  
23 protective order shall be valid for at least one hundred eighty days and not more  
24 than one year. For purposes of this subsection, a finding by the court of a  
25 subsequent act of abuse is not required for a renewal order of protection.

26           2. The court shall cause a copy of the petition and notice of the date set  
27 for the hearing on such petition and any ex parte order of protection to be served  
28 upon the respondent as provided by law or by any sheriff or police officer at least  
29 three days prior to such hearing. Such notice shall be served at the earliest time,  
30 and service of such notice shall take priority over service in other actions, except  
31 those of a similar emergency nature. The court shall cause a copy of any full  
32 order of protection to be served upon or mailed by certified mail to the respondent  
33 at the respondent's last known address. Failure to serve or mail a copy of the full  
34 order of protection to the respondent shall not affect the validity or enforceability  
35 of a full order of protection.

36           3. A copy of any order of protection granted pursuant to sections 455.010  
37 to 455.085 shall be issued to the petitioner and to the local law enforcement  
38 agency in the jurisdiction where the petitioner resides. The clerk shall also issue  
39 a copy of any order of protection to the local law enforcement agency responsible  
40 for maintaining the Missouri uniform law enforcement system or any other  
41 comparable law enforcement system the same day the order is granted. The law  
42 enforcement agency responsible for maintaining MULES shall enter information  
43 contained in the order for purposes of verification within twenty-four hours from  
44 the time the order is granted. A notice of expiration or of termination of any  
45 order of protection shall be issued to the local law enforcement agency and to the  
46 law enforcement agency responsible for maintaining MULES or any other  
47 comparable law enforcement system. The law enforcement agency responsible for  
48 maintaining the applicable law enforcement system shall enter such information

49 in the system. The information contained in an order of protection may be  
50 entered in the Missouri uniform law enforcement system or comparable law  
51 enforcement system using a direct automated data transfer from the court  
52 automated system to the law enforcement system.

53 **4. The court shall cause a copy of any objection filed by the**  
54 **respondent and notice of the date set for the hearing on such objection**  
55 **to an automatic renewal of a full order of protection for a period of one**  
56 **year to be personally served upon the petitioner by personal process**  
57 **server as provided by law or by a sheriff or police officer at least three**  
58 **days prior to such hearing. Such service of process shall be served at**  
59 **the earliest time and shall take priority over service in other actions**  
60 **except those of a similar emergency nature.**

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

6 (1) Temporarily enjoining the respondent from abusing, threatening to  
7 abuse, molesting, stalking or disturbing the peace of the petitioner;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (12) Order the respondent to pay the cost of medical treatment and  
53 services that have been provided or that are being provided to the petitioner as  
54 a result of injuries sustained to the petitioner by an act of domestic violence  
55 committed by the respondent.

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

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

69           6. The court shall grant to the noncustodial parent rights to visitation  
70 with any minor child born to or adopted by the parties, unless the court finds,  
71 after hearing, that visitation would endanger the child's physical health, impair  
72 the child's emotional development or would otherwise conflict with the best  
73 interests of the child, or that no visitation can be arranged which would  
74 sufficiently protect the custodial parent from further abuse. The court may  
75 appoint a guardian ad litem or court-appointed special advocate to represent the  
76 minor child in accordance with chapter 452 whenever the custodial parent alleges  
77 that visitation with the noncustodial parent will damage the minor child.

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

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

          455.060. 1. After notice and hearing, the court may modify an order of  
2 protection at any time, upon subsequent motion filed by the guardian ad litem,  
3 the court-appointed special advocate or by either party together with an affidavit  
4 showing a change in circumstances sufficient to warrant the modification. All full  
5 orders of protection shall be final orders and appealable and shall be for a fixed  
6 period of time as provided in section 455.040.

7           2. Any order for child support, custody, temporary custody, visitation or  
8 maintenance entered under sections 455.010 to 455.085 shall terminate prior to  
9 the time fixed in the order upon the issuance of a subsequent order pursuant to  
10 chapter 452 or any other Missouri statute.

11           3. No order entered pursuant to sections 455.010 to 455.085 shall be res

12   judicata to any subsequent proceeding, including, but not limited to, any action  
13   brought under chapter 452, RSMo, 1978 as amended.

14           4. All provisions of an order of protection shall terminate upon entry of  
15   a decree of dissolution of marriage or legal separation except as to those  
16   provisions which require the respondent to participate in a court-approved  
17   counseling program or enjoin the respondent from abusing, molesting, stalking  
18   or disturbing the peace of the petitioner and which enjoin the respondent from  
19   entering the premises of the dwelling unit of the petitioner as described in the  
20   order of protection when the petitioner continues to reside in that dwelling unit  
21   unless the respondent is awarded possession of the dwelling unit pursuant to a  
22   decree of dissolution of marriage or legal separation.

23           5. Any order of protection or order for child support, custody, temporary  
24   custody, visitation or maintenance entered under sections 455.010 to 455.085  
25   shall terminate upon the [filing of] **order of the court granting** a motion to  
26   terminate the order of protection by the petitioner[; except that, in cases where  
27   the order grants custody of a minor child to the respondent, the order shall  
28   terminate only upon consent of both parties or upon the respondent's failure to  
29   object within ten days of receiving the petitioner's notice of the filing of the  
30   motion to dismiss. If the respondent timely objects to the dismissal,]. The court  
31   shall set the motion to dismiss for hearing and both parties shall have an  
32   opportunity to be heard. **Prior to terminating any order of protection, the**  
33   **court may examine the circumstances of the motion to dismiss and may**  
34   **inquire of the petitioner or others in order to assist the court in**  
35   **determining if dismissal is voluntary.**

36           6. The order of protection may not change the custody of children when  
37   an action for dissolution of marriage has been filed or the custody has previously  
38   been awarded by a court of competent jurisdiction.

455.085. 1. When a law enforcement officer has probable cause to believe  
2   a party has committed a violation of law amounting to abuse or assault, as  
3   defined in section 455.010, against a family or household member, the officer may  
4   arrest the offending party whether or not the violation occurred in the presence  
5   of the arresting officer. When the officer declines to make arrest pursuant to this  
6   subsection, the officer shall make a written report of the incident completely  
7   describing the offending party, giving the victim's name, time, address, reason  
8   why no arrest was made and any other pertinent information. Any law  
9   enforcement officer subsequently called to the same address within a twelve-hour

10 period, who shall find probable cause to believe the same offender has again  
11 committed a violation as stated in this subsection against the same or any other  
12 family or household member, shall arrest the offending party for this subsequent  
13 offense. The primary report of nonarrest in the preceding twelve-hour period may  
14 be considered as evidence of the defendant's intent in the violation for which  
15 arrest occurred. The refusal of the victim to sign an official complaint against the  
16 violator shall not prevent an arrest under this subsection.

17         2. When a law enforcement officer has probable cause to believe that a  
18 party, against whom a protective order has been entered and who has notice of  
19 such order entered, has committed an act of abuse in violation of such order, the  
20 officer shall arrest the offending party-respondent whether or not the violation  
21 occurred in the presence of the arresting officer. Refusal of the victim to sign an  
22 official complaint against the violator shall not prevent an arrest under this  
23 subsection.

24         3. When an officer makes an arrest he is not required to arrest two  
25 parties involved in an assault when both parties claim to have been  
26 assaulted. The arresting officer shall attempt to identify and shall arrest the  
27 party he believes is the primary physical aggressor. The term "primary physical  
28 aggressor" is defined as the most significant, rather than the first, aggressor. The  
29 law enforcement officer shall consider any or all of the following in determining  
30 the primary physical aggressor:

31             (1) The intent of the law to protect victims of domestic violence from  
32 continuing abuse;

33             (2) The comparative extent of injuries inflicted or serious threats creating  
34 fear of physical injury;

35             (3) The history of domestic violence between the persons involved. No law  
36 enforcement officer investigating an incident of family violence shall threaten the  
37 arrest of all parties for the purpose of discouraging requests or law enforcement  
38 intervention by any party. Where complaints are received from two or more  
39 opposing parties, the officer shall evaluate each complaint separately to  
40 determine whether he should seek a warrant for an arrest.

41         4. In an arrest in which a law enforcement officer acted in good faith  
42 reliance on this section, the arresting and assisting law enforcement officers and  
43 their employing entities and superiors shall be immune from liability in any civil  
44 action alleging false arrest, false imprisonment or malicious prosecution.

45         5. When a person against whom an order of protection has been entered

46 fails to surrender custody of minor children to the person to whom custody was  
47 awarded in an order of protection, the law enforcement officer shall arrest the  
48 respondent, and shall turn the minor children over to the care and custody of the  
49 party to whom such care and custody was awarded.

50           6. The same procedures, including those designed to protect constitutional  
51 rights, shall be applied to the respondent as those applied to any individual  
52 detained in police custody.

53           7. A violation of the terms and conditions, with regard to abuse, stalking,  
54 child custody, communication initiated by the respondent or entrance upon the  
55 premises of the petitioner's dwelling unit **or place of employment or school,**  
56 **or being within a certain distance of the petitioner or a child of the**  
57 **petitioner**, of an ex parte order of protection of which the respondent has notice,  
58 shall be a class A misdemeanor unless the respondent has previously pleaded  
59 guilty to or has been found guilty **in state or municipal court** of violating an  
60 ex parte order of protection or a full order of protection within five years of the  
61 date of the subsequent violation, in which case the subsequent violation shall be  
62 a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be  
63 heard by the court out of the presence of the jury prior to submission of the case  
64 to the jury. If the court finds the existence of such prior pleas of guilty or finding  
65 of guilt beyond a reasonable doubt, the court shall decide the extent or duration  
66 of sentence or other disposition and shall not instruct the jury as to the range of  
67 punishment or allow the jury to assess and declare the punishment as a part of  
68 its verdict.

69           8. A violation of the terms and conditions, with regard to abuse, stalking,  
70 child custody, communication initiated by the respondent or entrance upon the  
71 premises of the petitioner's dwelling unit **or place of employment or school,**  
72 **or being within a certain distance of the petitioner or a child of the**  
73 **petitioner**, of a full order of protection shall be a class A misdemeanor, unless  
74 the respondent has previously pleaded guilty to or has been found guilty **in state**  
75 **or municipal court** of violating an ex parte order of protection or a full order  
76 of protection within five years of the date of the subsequent violation, in which  
77 case the subsequent violation shall be a class D felony. Evidence of prior pleas  
78 of guilty or findings of guilt shall be heard by the court out of the presence of the  
79 jury prior to submission of the case to the jury. If the court finds the existence  
80 of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court  
81 shall decide the extent or duration of the sentence or other disposition and shall

82 not instruct the jury as to the range of punishment or allow the jury to assess and  
83 declare the punishment as a part of its verdict. For the purposes of this  
84 subsection, in addition to the notice provided by actual service of the order, a  
85 party is deemed to have notice of an order of protection if the law enforcement  
86 officer responding to a call of a reported incident of abuse or violation of an order  
87 of protection presented a copy of the order of protection to the respondent.

88 9. Good faith attempts to effect a reconciliation of a marriage shall not be  
89 deemed tampering with a witness or victim tampering under section 575.270.

90 10. Nothing in this section shall be interpreted as creating a private cause  
91 of action for damages to enforce the provisions set forth herein.

92 **11. If a respondent has previously violated an ex parte or full**  
93 **order of protection, a municipal court shall transfer the case to circuit**  
94 **court.**

455.200. As used in sections 455.200 to 455.230, unless the context clearly  
2 requires otherwise, the following words and phrases mean:

3 (1) "Designated authority", the board, commission, agency, or other body  
4 designated under the provisions of section 455.210 as the authority to administer  
5 the allocation and distribution of funds to shelters;

6 (2) ["Domestic violence", attempting to cause or causing bodily injury to  
7 a family or household member, or placing a family or household member by threat  
8 of force in fear of imminent physical harm;

9 (3) "Family or household member", a spouse, a former spouse, person  
10 living with another person whether or not as spouses, parent, or other adult  
11 person related by consanguinity or affinity, who is residing or has resided with  
12 the person committing the domestic violence and dependents of such persons;

13 (4)] "Shelter for victims of domestic violence" or "shelter", a facility  
14 established for the purpose of providing temporary residential service or facilities  
15 to family or household members who are victims of domestic violence.

455.513. 1. Upon the filing of a verified petition under sections 455.500  
2 to 455.538, for good cause shown in the petition, and upon finding that no prior  
3 order regarding custody is pending or has been made, the court may immediately  
4 issue an ex parte order of protection. An immediate and present danger of abuse  
5 to a child shall constitute good cause for purposes of this section. An ex parte  
6 order of protection entered by the court shall be in effect until the time of the  
7 hearing.

8 2. Upon the entry of the ex parte order of protection, the court shall enter

9 its order appointing a guardian ad litem or court-appointed special advocate to  
10 represent the child victim.

11 3. If the allegations in the petition would give rise to jurisdiction under  
12 section 211.031, the court may direct the division of family services to conduct an  
13 investigation and to provide appropriate services. The division shall submit a  
14 written investigative report to the court and to the juvenile officer within thirty  
15 days of being ordered to do so. The report shall be made available to the parties  
16 and the guardian ad litem or court-appointed special advocate.

17 **4. If an ex parte order is entered and the allegations in the**  
18 **petition would give rise to jurisdiction under section 211.031 because**  
19 **the respondent is less than seventeen years of age, the court shall**  
20 **transfer the case to juvenile court for a hearing on a full order of**  
21 **protection.**

2 455.516. 1. Not later than fifteen days after the filing of a petition under  
3 sections 455.500 to 455.538, a hearing shall be held unless the court deems, for  
4 good cause shown, that a continuance should be granted. At the hearing, which  
5 may be an open or a closed hearing at the discretion of the court, whichever is in  
6 the best interest of the child, if the petitioner has proved the allegation of [abuse  
7 of] **domestic violence against** a child by a preponderance of the evidence, the  
8 court may issue a full order of protection for at least one hundred eighty days and  
9 not more than one year. The court may allow as evidence any in camera  
10 videotape made of the testimony of the child pursuant to section 491.699. The  
11 provisions of section 491.075 relating to admissibility of statements of a child  
12 under the age of twelve shall apply to any hearing under the provisions of  
13 sections 455.500 to 455.538. Upon motion by either party, the guardian ad litem  
14 or the court- appointed special advocate, and after a hearing by the court, the full  
15 order of protection may be renewed for a period of time the court deems  
16 appropriate, except that the protective order shall be valid for at least one  
17 hundred eighty days and not more than one year from the expiration date of the  
18 originally issued full order of protection. **The court may, upon finding that**  
19 **it is in the best interest of the child, include a provision that any full**  
20 **order of protection for one year shall automatically renew unless the**  
21 **respondent requests a hearing within thirty days of the expiration of**  
22 **the order.** If for good cause a hearing cannot be held on the motion to renew **or**  
23 **to terminate the automatic renewal of** the full order of protection prior to  
the expiration date of the originally issued full order of protection, an ex parte

24 order of protection may be issued until a hearing is held on the motion. **When**  
25 **an automatic renewal is not authorized**, upon motion by either party, the  
26 guardian ad litem or the court appointed special advocate, and after a hearing by  
27 the court, the second full order of protection may be renewed for an additional  
28 period of time the court deems appropriate, except that the protective order shall  
29 be valid for at least one hundred eighty days and not more than one year from the  
30 expiration date of the second full order of protection. If for good cause a hearing  
31 cannot be held on the motion to renew the second full order of protection prior to  
32 the expiration date of the second order, an ex parte order of protection may be  
33 issued until a hearing is held on the motion. For purposes of this subsection, a  
34 finding by the court of a subsequent act of abuse is not required for a renewal  
35 order of protection.

36         2. The court shall cause a copy of the petition and notice of the date set  
37 for the hearing on such petition and any ex parte order of protection to be  
38 personally served upon the respondent by personal process server as provided by  
39 law or by any sheriff or police officer at least three days prior to such  
40 hearing. Such shall be served at the earliest time, and service of such shall take  
41 priority over service in other actions, except those of a similar emergency  
42 nature. The court shall cause a copy of any full order of protection to be served  
43 upon or mailed by certified mail to the respondent at the respondent's last known  
44 address. Failure to serve or mail a copy of the full order of protection to the  
45 respondent shall not affect the validity or enforceability of a full order of  
46 protection.

47         3. A copy of any order of protection granted under sections 455.500 to  
48 455.538 shall be issued to the petitioner and to the local law enforcement agency  
49 in the jurisdiction where the petitioner resides. The clerk shall also issue a copy  
50 of any order of protection to the local law enforcement agency responsible for  
51 maintaining the Missouri uniform law enforcement system (MULES) or any other  
52 comparable law enforcement system the same day the order is granted. The law  
53 enforcement agency responsible for maintaining MULES shall enter information  
54 contained in the order for purposes of verification within twenty-four hours from  
55 the time the order is granted. A notice of expiration or of termination of any  
56 order of protection shall be issued to such local law enforcement agency and to  
57 the law enforcement agency responsible for maintaining MULES or any other  
58 comparable law enforcement system. The law enforcement agency responsible for  
59 maintaining the applicable law enforcement system shall enter such information

60 in the system.

61 The information contained in an order of protection may be entered in the  
62 Missouri uniform law enforcement system or comparable law enforcement system  
63 using a direct automated data transfer from the court automated system to the  
64 law enforcement system.

65 4. A copy of the petition and notice of the date set for the hearing on such  
66 petition and any order of protection granted pursuant to sections 455.500 to  
67 455.538 shall be issued to the juvenile office in the jurisdiction where the  
68 petitioner resides. A notice of expiration or of termination of any order of  
69 protection shall be issued to such juvenile office.

70 **5. The court shall cause a copy of any objection filed by the**  
71 **respondent and notice of the date set for the hearing on such objection**  
72 **to an automatic renewal of a full order of protection for a period of one**  
73 **year to be personally served upon the petitioner by a personal process**  
74 **server as provided by law or by a sheriff or police officer at least three**  
75 **days prior to such hearing. Such service of process shall be served at**  
76 **the earliest time and shall take priority over service in other actions**  
77 **except those of a similar emergency nature.**

455.520. 1. Any ex parte order of protection granted under sections  
2 455.500 to 455.538 shall be to protect the victim from [abuse] **domestic**  
3 **violence** and may include **such terms as the court reasonably deems**  
4 **necessary to ensure the petitioner's safety, including but not limited to:**

5 (1) Restraining the respondent from abusing, threatening to abuse,  
6 molesting or disturbing the peace of the victim;

7 (2) Restraining the respondent from entering the family home of the  
8 victim except as specifically authorized by the court;

9 (3) Restraining the respondent from [having any contact]  
10 **communicating** with the victim **in any manner or through any medium,**  
11 except as specifically authorized by the court;

12 (4) A temporary order of custody of minor children.

13 2. No ex parte order of protection excluding the respondent from the  
14 family home shall be issued unless the court finds that:

15 (1) The order is in the best interests of the child or children remaining in  
16 the home;

17 (2) The verified allegations of [abuse] **domestic violence** present a  
18 substantial risk to the child or children unless the respondent is excluded;

19 (3) A remaining adult family or household member is able to care  
20 adequately for the child or children in the absence of the excluded party; and

21 (4) A commitment has been obtained from the local division of family  
22 services office to provide appropriate social services to the family or household  
23 members during the period of time which an order of protection is in effect.

455.523. 1. Any full order of protection granted under sections 455.500  
2 to 455.538 shall be to protect the victim from [abuse] **domestic violence** and  
3 may include **such terms as the court reasonably deems necessary to**  
4 **ensure the petitioner's safety, including but not limited to:**

5 (1) Temporarily enjoining the respondent from abusing, threatening to  
6 abuse, molesting or disturbing the peace of the victim;

7 (2) Temporarily enjoining the respondent from entering the family home  
8 of the victim, except as specifically authorized by the court;

9 (3) Temporarily enjoining the respondent from [having any contact]  
10 **communicating** with the victim **in any manner or through any medium,**  
11 except as specifically authorized by the court.

12 2. When the court has, after hearing for any full order of protection,  
13 issued an order of protection, it may, in addition:

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

18 (2) Award visitation;

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

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

23 (5) Order respondent to make or to continue to make rent or mortgage  
24 payments on a residence occupied by the victim if the respondent is found to have  
25 a duty to support the victim or other dependent household members;

26 (6) Order the respondent to participate in a court-approved counseling  
27 program designed to help child abusers stop violent behavior or to treat substance  
28 abuse;

29 (7) Order the respondent to pay, to the extent that he or she is able, the  
30 costs of his or her treatment, together with the treatment costs incurred by the  
31 victim;

32 (8) Order the respondent to pay a reasonable fee for housing and other  
33 services that have been provided or that are being provided to the victim by a  
34 shelter for victims of domestic violence.

455.538. 1. When a law enforcement officer has probable cause to believe  
2 that a party, against whom a protective order for a child has been entered, has  
3 committed an act of abuse in violation of that order, he shall have the authority  
4 to arrest the respondent whether or not the violation occurred in the presence of  
5 the arresting officer.

6 2. When a person, against whom an order of protection for a child has  
7 been entered, fails to surrender custody of minor children to the person to whom  
8 custody was awarded in an order of protection, the law enforcement officer shall  
9 arrest the respondent, and shall turn the minor children over to the care and  
10 custody of the party to whom such care and custody was awarded.

11 3. The same procedures, including those designed to protect constitutional  
12 rights, shall be applied to the respondent as those applied to any individual  
13 detained in police custody.

14 4. (1) Violation of the terms and conditions of an ex parte **or full** order  
15 of protection with regard to abuse, child custody, **communication initiated by**  
16 **the respondent**, or entrance upon the premises of the victim's dwelling unit **or**  
17 **place of employment or school, or being within a certain distance of the**  
18 **petitioner or a child of the petitioner**, of which the respondent has notice,  
19 shall be a class A misdemeanor]. Violation of the terms and conditions of a full  
20 order of protection for a child regarding abuse, child custody, or entrance upon  
21 the premises of the petitioner's dwelling unit, shall be a class A misdemeanor],  
22 **unless the respondent has previously pleaded guilty to or has been**  
23 **found guilty in state or municipal court of violating an ex parte order**  
24 **of protection or a full order of protection within five years of the date**  
25 **of the subsequent violation, in which case the subsequent violation**  
26 **shall be a class D felony. Evidence of a prior plea of guilty or finding**  
27 **of guilt shall be heard by the court out of the presence of the jury prior**  
28 **to submission of the case to the jury. If the court finds the existence of**  
29 **a prior plea of guilty or finding of guilt beyond a reasonable doubt, the**  
30 **court shall decide the extent or duration of sentence or other**  
31 **disposition and shall not instruct the jury as to the range of**  
32 **punishment or allow the jury to assess and declare the punishment as**  
33 **a part of its verdict.**

34 (2) For purposes of this subsection, in addition to the notice provided by  
35 actual service of the order, a party is deemed to have notice of an order of  
36 protection for a child if the law enforcement officer responding to a call of a  
37 reported incident of abuse or violation of an order of protection for a child  
38 presents a copy of the order of protection to the respondent.

39 5. The fact that an act by a respondent is a violation of a valid order of  
40 protection for a child shall not preclude prosecution of the respondent for other  
41 crimes arising out of the incident in which the protection order is alleged to have  
42 been violated.

455.543. 1. In any incident investigated by a law enforcement agency  
2 involving a homicide or suicide, the law enforcement agency shall make a  
3 determination as to whether the homicide or suicide is related to domestic  
4 violence[, as defined in section 455.200].

5 2. In making such determination, the local law enforcement agency may  
6 consider a number of factors including, but not limited to, the following:

7 (1) If the relationship between the perpetrator and the victim is or was  
8 that of a family or household member[, as defined in section 455.010];

9 (2) Whether the victim or perpetrator had previously filed for an order of  
10 protection;

11 (3) Whether any of the subjects involved in the incident had previously  
12 been investigated for incidents of domestic violence; and

13 (4) Any other evidence regarding the homicide or suicide that assists the  
14 agency in making its determination.

15 3. After making a determination as to whether the homicide or suicide is  
16 related to domestic violence, the law enforcement agency shall forward the  
17 information required within fifteen days to the Missouri state highway patrol on  
18 a form or format approved by the patrol. The required information shall include  
19 the gender and age of the victim, the type of incident investigated, the disposition  
20 of the incident and the relationship of the victim to the perpetrator. The state  
21 highway patrol shall develop a form for this purpose which shall be distributed  
22 by the department of public safety to all law enforcement agencies by October 1,  
23 2000. Completed forms shall be forwarded to the highway patrol without undue  
24 delay as required by section 43.500; except that all such reports shall be  
25 forwarded no later than seven days after an incident is determined or identified  
26 as a homicide or suicide involving domestic violence.

**455.549. 1. In consultation with the statewide domestic violence**

2 coalition, the division of probation and parole within the department  
3 of corrections shall promulgate rules to establish standards and to  
4 adopt a credentialing process for any court-appointed batterer  
5 intervention program.

6       2. Any rule or portion of a rule, as that term is defined in section  
7 536.010 that is created under the authority delegated in this section  
8 shall become effective only if it complies with and is subject to all of  
9 the provisions of chapter 536, and, if applicable, section 536.028. This  
10 section and chapter 536 are nonseverable and if any of the powers  
11 vested with the general assembly pursuant to chapter 536, to review, to  
12 delay the effective date, or to disapprove and annul a rule are  
13 subsequently held unconstitutional, then the grant of rulemaking  
14 authority and any rule proposed or adopted after August 28, 2011, shall  
15 be invalid and void.

527.290. 1. Public notice of such a change of name shall be given at least  
2 three times in a newspaper published in the county where such person is  
3 residing, within twenty days after the order of court is made, and if no newspaper  
4 is published in his or any adjacent county, then such notice shall be given in a  
5 newspaper published in the city of St. Louis, or at the seat of government.

6       2. Public notice of such name change through publication as required in  
7 subsection 1 of this section shall not be required if the petitioner is:

8       (1) The victim of a crime, the underlying factual basis of which is found  
9 by the court on the record to include an act of domestic violence, as defined in  
10 section [455.200] **455.010**;

11       (2) The victim of child abuse, as defined in section 210.110; or

12       (3) The victim of abuse by a family or household member, as defined in  
13 section 455.010.

565.074. 1. A person commits the crime of domestic assault in the third  
2 degree if the act involves a family or household member or an adult who is or has  
3 been in a continuing social relationship of a romantic or intimate nature with the  
4 actor, as defined in section 455.010 and:

5       (1) The person attempts to cause or recklessly causes physical injury to  
6 such family or household member; or

7       (2) With criminal negligence the person causes physical injury to such  
8 family or household member by means of a deadly weapon or dangerous  
9 instrument; or

10 (3) The person purposely places such family or household member in  
11 apprehension of immediate physical injury by any means; or

12 (4) The person recklessly engages in conduct which creates a grave risk  
13 of death or serious physical injury to such family or household member; or

14 (5) The person knowingly causes physical contact with such family or  
15 household member knowing the other person will regard the contact as offensive;  
16 or

17 (6) The person knowingly attempts to cause or causes the isolation of such  
18 family or household member by unreasonably and substantially restricting or  
19 limiting such family or household member's access to other persons,  
20 telecommunication devices or transportation for the purpose of isolation.

21 2. Except as provided in subsection 3 of this section, domestic assault in  
22 the third degree is a class A misdemeanor.

23 3. A person who has pleaded guilty to or been found guilty of the crime  
24 of domestic assault in the third degree more than two times against any family  
25 or household member as defined in section 455.010, **or of any offense**  
26 **committed in violation of any county or municipal ordinance in any**  
27 **state, any state law, any federal law, or any military law which, if**  
28 **committed in this state, would be chargeable or indictable as a**  
29 **violation of this section**, is guilty of a class D felony for the third or any  
30 subsequent commission of the crime of domestic assault. The offenses described  
31 in this subsection may be against the same family or household member or  
32 against different family or household members.

595.100. 1. There is hereby established in the state treasury the "Services  
2 to Victims Fund" which shall consist of money collected pursuant to section  
3 595.045. The fund shall be administered by the department of public  
4 safety. Upon appropriation, money in the fund shall be used solely for the  
5 administration of sections 595.050, 595.055 and 595.105, **except that public or**  
6 **private agencies, as defined by section 595.050, shall use no more than**  
7 **ten percent of any funds received for administrative purposes.**

8 2. Notwithstanding the provisions of section 33.080, any balance  
9 remaining in the fund at the end of an appropriation period shall not be  
10 transferred to general revenue, but shall remain in the fund.

[455.501. As used in sections 455.500 to 455.538, the  
2 following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional

4 abuse inflicted on a child other than by accidental means by an  
5 adult household member, or stalking of a child. Discipline  
6 including spanking, administered in a reasonable manner shall not  
7 be construed to be abuse;

8 (2) "Adult household member", any person eighteen years  
9 of age or older or an emancipated child who resides with the child  
10 in the same dwelling unit;

11 (3) "Child", any person under eighteen years of age;

12 (4) "Court", the circuit or associate circuit judge or a family  
13 court commissioner;

14 (5) "Ex parte order of protection", an order of protection  
15 issued by the court before the respondent has received notice of the  
16 petition or an opportunity to be heard on it;

17 (6) "Full order of protection", an order of protection issued  
18 after a hearing on the record where the respondent has received  
19 notice of the proceedings and has had an opportunity to be heard;

20 (7) "Order of protection", either an ex parte order of  
21 protection or a full order of protection;

22 (8) "Petitioner", a person authorized to file a verified  
23 petition under the provisions of sections 455.503 and 455.505;

24 (9) "Respondent", the adult household member,  
25 emancipated child or person stalking the child against whom a  
26 verified petition has been filed;

27 (10) "Stalking", when an adult purposely and repeatedly  
28 engages in an unwanted course of conduct with regard to a child  
29 that causes another adult to believe that a child would suffer alarm  
30 by the conduct. As used in this subdivision:

31 (a) "Course of conduct" means a pattern of conduct  
32 composed of repeated acts over a period of time, however short,  
33 that serves no legitimate purpose.

34 Such conduct may include, but is not limited to, following the other  
35 person or unwanted communication or contact;

36 (b) "Repeated" means two or more incidents evidencing a  
37 continuity of purpose; and

38 (c) "Alarm" means to cause fear of danger of physical harm;

39 (11) "Victim", a child who is alleged to have been abused by

40 an adult household member.]

[455.540. As used in sections 455.540 to 455.547, the  
2 following terms shall mean:

3 (1) "Adult", any person eighteen years of age or older;

4 (2) "Domestic violence", as provided in section 455.200.]

✓

Unofficial

Bill

Copy