

FIRST REGULAR SESSION

# SENATE BILL NO. 222

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time January 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0921S.02I

## AN ACT

To repeal sections 455.010, 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, and 527.290, RSMo, and to enact in lieu thereof nineteen new sections relating to domestic violence, with existing penalty provisions.

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

Section A. Sections 455.010, 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, and 527.290, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 455.010, 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, and 527.290, to read as follows:

455.010. As used in this chapter, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to this chapter, except abuse shall not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner:

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

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

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

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

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

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

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

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

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

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

30 (3) "Child", any person under seventeen years of age unless otherwise  
31 emancipated;

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

34 (5) "Domestic violence", abuse or stalking **committed by a family or**  
35 **household member**, as [both] **such** terms are defined in this section;

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

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

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

48 (9) "Order of protection", either an ex parte order of protection or a full  
49 order of protection;

50 (10) "Pending", exists or for which a hearing date has been set;

51 (11) "Petitioner", a family or household member who has been a victim of  
52 domestic violence, or any person who has been the victim of stalking, or a person  
53 filing on behalf of a child pursuant to section 455.503 who has filed a verified  
54 petition pursuant to the provisions of section 455.020 or section 455.505;

55 (12) "Respondent", the family or household member alleged to have  
56 committed an act of domestic violence, or person alleged to have committed an act  
57 of stalking, against whom a verified petition has been filed or a person served on  
58 behalf of a child pursuant to section 455.503;

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

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

64 (b) "Course of conduct" means a pattern of conduct composed of repeated  
65 acts over a period of time, however short, that serves no legitimate purpose. Such  
66 conduct may include, but is not limited to, following the other person or unwanted  
67 communication or unwanted contact; and

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

455.015. The petition shall be filed in the county where the petitioner  
2 resides, where the alleged incident of [abuse] **domestic violence** occurred, or  
3 where the respondent may be served.

455.020. 1. Any [adult] **person** who has been subject to domestic violence  
2 by a present or former family or household member, or who has been the victim  
3 of stalking, may seek relief under sections 455.010 to 455.085 by filing a verified  
4 petition alleging such domestic violence or stalking by the respondent.

5 2. [An adult's] **A person's** right to relief under sections 455.010 to  
6 455.085 shall not be affected by [his] **the person** leaving the residence or  
7 household to avoid domestic violence.

8 3. Any protection order issued pursuant to sections 455.010 to 455.085  
9 shall be effective throughout the state in all cities and counties.

455.030. 1. When the court is unavailable after business hours or on  
2 holidays or weekends, a verified petition for protection from [abuse] **domestic**

3 **violence** or a motion for hearing on violation of any order of protection under  
4 sections 455.010 to 455.085 may be filed before any available court in the city or  
5 county having jurisdiction to hear the petition pursuant to the guidelines  
6 developed pursuant to subsection 4 of this section. An ex parte order may be  
7 granted pursuant to section 455.035.

8 2. All papers in connection with the filing of a petition or the granting of  
9 an ex parte order of protection or a motion for a hearing on a violation of an order  
10 of protection under this section shall be certified by such court or the clerk within  
11 the next regular business day to the circuit court having jurisdiction to hear the  
12 petition.

13 3. A petitioner seeking a protection order shall not be required to reveal  
14 any current address or place of residence except to the court in camera for the  
15 purpose of determining jurisdiction and venue. The petitioner may be required  
16 to provide a mailing address unless the petitioner alleges that he or she would  
17 be endangered by such disclosure, or that other family or household members  
18 would be endangered by such disclosure. Effective January 1, 2004, a petitioner  
19 shall not be required to provide his or her Social Security number on any petition  
20 or document filed in connection with a protection order; except that, the court  
21 may require that a petitioner's Social Security number be retained on a  
22 confidential case sheet or other confidential record maintained in conjunction  
23 with the administration of the case.

24 4. The supreme court shall develop guidelines which ensure that a  
25 verified petition may be filed on holidays, evenings and weekends.

455.032. In addition to any other jurisdictional grounds provided by law,  
2 a court shall have jurisdiction to enter an order of protection restraining or  
3 enjoining the respondent from [abusing, threatening to abuse] **committing or**  
4 **threatening to commit domestic violence, stalking**, molesting or disturbing  
5 the peace of petitioner, pursuant to sections 455.010 to 455.085, if the petitioner  
6 is present, whether permanently or on a temporary basis within the state of  
7 Missouri and if the respondent's actions constituting [abuse] **domestic violence**  
8 have occurred, have been attempted or have been or are threatened within the  
9 state of Missouri. For purposes of this section, if the petitioner has been the  
10 subject of [abuse] **domestic violence** within or outside of the state of Missouri,  
11 such evidence shall be admissible to demonstrate the need for protection in  
12 Missouri.

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] **domestic violence** to the petitioner **or the child on whose**  
5 **behalf the petition is filed** shall constitute good cause for purposes of this  
6 section. An ex parte order of protection entered by the court shall take effect  
7 when entered and shall remain in effect until there is valid service of process and  
8 a hearing is held on the motion. **The court shall deny the ex parte order**  
9 **and dismiss the petition if the petitioner is not authorized to seek relief**  
10 **pursuant to section 455.020.**

11 2. Failure to serve an ex parte order of protection on the respondent shall  
12 not affect the validity or enforceability of such order. If the respondent is less  
13 than seventeen years of age, unless otherwise emancipated, service of process  
14 shall be made upon a **custodial** parent or guardian of the respondent, or upon  
15 a guardian ad litem appointed by the court, **requiring that the person appear**  
16 **and bring the respondent before the court at the time and place stated.**

17 3. If an ex parte order is entered and [the allegations in the petition  
18 would give rise to jurisdiction under section 211.031 because] the respondent is  
19 less than seventeen years of age, the court shall transfer the case to juvenile  
20 court for a hearing on a full order of protection. The court shall appoint a  
21 guardian ad litem for any such respondent not represented by a parent or  
22 guardian.

455.040. 1. Not later than fifteen days after the filing of a petition  
2 [pursuant to sections 455.010 to 455.085] **that meets the requirements of**  
3 **section 455.020**, a hearing shall be held unless the court deems, for good cause  
4 shown, that a continuance should be granted. At the hearing, if the petitioner  
5 has proved the allegation of [abuse] **domestic violence** or stalking by a  
6 preponderance of the evidence, the court shall issue a full order of protection for  
7 a period of time the court deems appropriate, except that the protective order  
8 shall be valid for at least one hundred eighty days and not more than one  
9 year. Upon motion by the petitioner, and after a hearing by the court, the full  
10 order of protection may be renewed for a period of time the court deems  
11 appropriate, except that the protective order shall be valid for at least one  
12 hundred eighty days and not more than one year from the expiration date of the  
13 originally issued full order of protection. The court may, upon finding that it is  
14 in the best interest of the parties, include a provision that any full order of  
15 protection for one year shall automatically renew unless the respondent requests

16 a hearing by thirty days prior to the expiration of the order. If for good cause a  
17 hearing cannot be held on the motion to renew or the objection to an automatic  
18 renewal of the full order of protection prior to the expiration date of the originally  
19 issued full order of protection, an ex parte order of protection may be issued until  
20 a hearing is held on the motion. When an automatic renewal is not authorized,  
21 upon motion by the petitioner, and after a hearing by the court, the second full  
22 order of protection may be renewed for an additional period of time the court  
23 deems appropriate, except that the protective order shall be valid for at least one  
24 hundred eighty days and not more than one year. For purposes of this  
25 subsection, a finding by the court of a subsequent act of [abuse] **domestic**  
26 **violence or stalking** is not required for a renewal order of protection.

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

40 3. A copy of any order of protection granted pursuant to sections 455.010  
41 to 455.085 shall be issued to the petitioner and to the local law enforcement  
42 agency in the jurisdiction where the petitioner resides. The clerk shall also issue  
43 a copy of any order of protection to the local law enforcement agency responsible  
44 for maintaining the Missouri uniform law enforcement system or any other  
45 comparable law enforcement system the same day the order is granted. The law  
46 enforcement agency responsible for maintaining MULES shall, for purposes of  
47 verification, within twenty-four hours from the time the order is granted, enter  
48 information contained in the order including but not limited to any orders  
49 regarding child custody or visitation and all specifics as to times and dates of  
50 custody or visitation that are provided in the order. A notice of expiration or of  
51 termination of any order of protection or any change in child custody or visitation

52 within that order shall be issued to the local law enforcement agency and to the  
53 law enforcement agency responsible for maintaining MULES or any other  
54 comparable law enforcement system. The law enforcement agency responsible for  
55 maintaining the applicable law enforcement system shall enter such information  
56 in the system within twenty-four hours of receipt of information evidencing such  
57 expiration or termination. The information contained in an order of protection  
58 may be entered in the Missouri uniform law enforcement system or comparable  
59 law enforcement system using a direct automated data transfer from the court  
60 automated system to the law enforcement system.

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

455.045. Any ex parte order of protection granted pursuant to sections  
2 455.010 to 455.085 shall be to protect the petitioner from [abuse] **domestic**  
3 **violence** or stalking and may include:

4 (1) Restraining the respondent from [abusing, threatening to abuse]  
5 **committing or threatening to commit domestic violence**, molesting,  
6 stalking or disturbing the peace of the petitioner;

7 (2) Restraining the respondent from entering the premises of the dwelling  
8 unit of 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 or rented by petitioner and a person other than  
12 respondent; provided, however, no spouse shall be denied relief pursuant to this  
13 section by 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 the  
15 respondent; provided that the respondent has no property interest in the dwelling  
16 unit;

17 (3) Restraining the respondent from communicating with the petitioner  
18 in any manner or through any medium;

19 (4) A temporary order of custody of minor children where appropriate.

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 domestic  
3 violence and 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] **committing or threatening to commit domestic violence**, molesting,  
7 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] **domestic**  
75 **violence**. The court may appoint a guardian ad litem or court-appointed special  
76 advocate to represent the minor child in accordance with chapter 452 whenever  
77 the custodial parent alleges that visitation with the noncustodial parent will  
78 damage the minor child.

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

84 8. The court may grant a maintenance order to a party for a period of  
85 time, not to exceed one hundred eighty days. Any maintenance ordered by the  
86 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] **committing an act of domestic violence against**  
19 the petitioner and which enjoin the respondent from entering the premises of the  
20 dwelling unit of the petitioner as described in the order of protection when the  
21 petitioner continues to reside in that dwelling unit unless the respondent is  
22 awarded possession of the dwelling unit pursuant to a decree of dissolution of  
23 marriage or legal separation.

24           5. Any order of protection or order for child support, custody, temporary  
25 custody, visitation or maintenance entered under sections 455.010 to 455.085  
26 shall terminate upon the order of the court granting a motion to terminate the  
27 order of protection by the petitioner. [The court shall set the motion to dismiss  
28 for hearing and both parties shall have an opportunity to be heard.] Prior to  
29 terminating any order of protection, the court may [examine the circumstances  
30 of the motion to dismiss and may] inquire of the petitioner or others **in camera**  
31 in order to [assist the court in determining if] **determine whether the**  
32 dismissal is voluntary.

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

455.080. 1. Law enforcement agencies may establish procedures to ensure  
2 that dispatchers and officers at the scene of an alleged incident of [abuse]  
3 **domestic violence or stalking** or violation of an order of protection can be  
4 informed of any recorded prior incident of [abuse] **domestic violence or**  
5 **stalking** involving the abused party and can verify the effective dates and terms  
6 of any recorded order of protection.

7           2. The law enforcement agency shall apply the same standard for response  
8 to an alleged incident of [abuse] **domestic violence or stalking** or a violation  
9 of any order of protection as applied to any like offense involving strangers,  
10 except as otherwise provided by law. Law enforcement agencies shall not assign  
11 lower priority to calls involving alleged incidents of [abuse] **domestic violence**  
12 **or stalking** or violation of protection orders than is assigned in responding to  
13 offenses involving strangers. Existence of any of the following factors shall be  
14 interpreted as indicating a need for immediate response:

- 15           (1) The caller indicates that violence is imminent or in progress; or  
16           (2) A protection order is in effect; or  
17           (3) The caller indicates that incidents of domestic violence have occurred  
18 previously between the parties.

19           3. Law enforcement agencies may establish domestic crisis teams or, if the  
20 agency has fewer than five officers whose responsibility it is to respond to calls  
21 of this nature, individual officers trained in methods of dealing with [family and  
22 household quarrels] **domestic violence**. Such teams or individuals may be  
23 supplemented by social workers, ministers or other persons trained in counseling  
24 or crisis intervention. When an alleged incident of [family or household abuse]

25 **domestic violence** is reported, the agency may dispatch a crisis team or  
26 specially trained officer, if available, to the scene of the incident.

27 4. The officer at the scene of an alleged incident of [abuse] **domestic**  
28 **violence or stalking** shall inform the abused party of available judicial  
29 remedies for relief from [adult abuse] **domestic violence** and of available  
30 shelters for victims of domestic violence.

31 5. Law enforcement officials at the scene shall provide or arrange  
32 transportation for the abused party to a medical facility for treatment of injuries  
33 or to a place of shelter or safety.

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]  
3 **domestic violence**, as defined in section 455.010, against a family or household  
4 member, the officer may arrest the offending party whether or not the violation  
5 occurred in the presence of the arresting officer. When the officer declines to  
6 make arrest pursuant to this subsection, the officer shall make a written report  
7 of the incident completely describing the offending party, giving the victim's  
8 name, time, address, reason why no arrest was made and any other pertinent  
9 information. Any law enforcement officer subsequently called to the same  
10 address within a twelve-hour period, who shall find probable cause to believe the  
11 same offender has again committed a violation as stated in this subsection  
12 against the same or any other family or household member, shall arrest the  
13 offending party for this subsequent offense. The primary report of nonarrest in  
14 the preceding twelve-hour period may be considered as evidence of the  
15 defendant's intent in the violation for which arrest occurred. The refusal of the  
16 victim to sign an official complaint against the violator shall not prevent an  
17 arrest under this subsection.

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

25 3. When an officer makes an arrest [he], **the officer** is not required to  
26 arrest two parties involved in an assault when both parties claim to have been  
27 assaulted. The arresting officer shall attempt to identify and shall arrest the

28 party [he] **the officer** believes is the primary physical aggressor. The term  
29 "primary physical aggressor" is defined as the most significant, rather than the  
30 first, aggressor. The law enforcement officer shall consider any or all of the  
31 following in determining the primary physical aggressor:

32 (1) The intent of the law to protect victims [of domestic violence] from  
33 continuing [abuse] **domestic violence**;

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

36 (3) The history of domestic violence between the persons involved.

37 No law enforcement officer investigating an incident of [family] **domestic**  
38 violence shall threaten the arrest of all parties for the purpose of discouraging  
39 requests or law enforcement intervention by any party. Where complaints are  
40 received from two or more opposing parties, the officer shall evaluate each  
41 complaint separately to determine whether [he] **the officer** should seek a  
42 warrant for an arrest.

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

47 5. When a person against whom an order of protection has been entered  
48 fails to surrender custody of minor children to the person to whom custody was  
49 awarded in an order of protection, the law enforcement officer shall arrest the  
50 respondent, and shall turn the minor children over to the care and custody of the  
51 party to whom such care and custody was awarded.

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

55 7. A violation of the terms and conditions, with regard to [abuse]  
56 **domestic violence**, stalking, child custody, communication initiated by the  
57 respondent or entrance upon the premises of the petitioner's dwelling unit or  
58 place of employment or school, or being within a certain distance of the petitioner  
59 or a child of the petitioner, of an ex parte order of protection of which the  
60 respondent has notice, shall be a class A misdemeanor unless the respondent has  
61 previously pleaded guilty to or has been found guilty in any division of the circuit  
62 court of violating an ex parte order of protection or a full order of protection  
63 within five years of the date of the subsequent violation, in which case the

64 subsequent violation shall be a class D felony. Evidence of prior pleas of guilty  
65 or findings of guilt shall be heard by the court out of the presence of the jury  
66 prior to submission of the case to the jury. If the court finds the existence of such  
67 prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall  
68 decide the extent or duration of sentence or other disposition and shall not  
69 instruct the jury as to the range of punishment or allow the jury to assess and  
70 declare the punishment as a part of its verdict.

71 8. A violation of the terms and conditions, with regard to [abuse]  
72 **domestic violence**, stalking, child custody, communication initiated by the  
73 respondent or entrance upon the premises of the petitioner's dwelling unit or  
74 place of employment or school, or being within a certain distance of the petitioner  
75 or a child of the petitioner, of a full order of protection shall be a class A  
76 misdemeanor, unless the respondent has previously pleaded guilty to or has been  
77 found guilty in any division of the circuit court of violating an ex parte order of  
78 protection or a full order of protection within five years of the date of the  
79 subsequent violation, in which case the subsequent violation shall be a class D  
80 felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the  
81 court out of the presence of the jury prior to submission of the case to the jury. If  
82 the court finds the existence of such prior plea of guilty or finding of guilt beyond  
83 a reasonable doubt, the court shall decide the extent or duration of the sentence  
84 or other disposition and shall not instruct the jury as to the range of punishment  
85 or allow the jury to assess and declare the punishment as a part of its  
86 verdict. For the purposes of this subsection, in addition to the notice provided by  
87 actual service of the order, a party is deemed to have notice of an order of  
88 protection if the law enforcement officer responding to a call of a reported  
89 incident of [abuse] **domestic violence, stalking**, or violation of an order of  
90 protection presented a copy of the order of protection to the respondent.

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

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

455.503. 1. A petition for an order of protection for a child shall be filed  
2 in the county where the child resides, where the alleged incident of [abuse]  
3 **domestic violence or stalking** occurred, or where the respondent may be  
4 served.

5 2. Such petition may be filed by any of the following:

- 6 (1) A parent or guardian of the victim;  
7 (2) A guardian ad litem or court-appointed special advocate appointed for  
8 the victim; or  
9 (3) The juvenile officer.

455.505. 1. An order of protection for a child who has been subject to  
2 domestic violence by a present or former [adult] household member or person  
3 stalking the child may be sought under sections 455.500 to 455.538 by the filing  
4 of a verified petition alleging such domestic violence **or stalking** by the  
5 respondent.

6 2. A child's right to relief under sections 455.500 to 455.538 shall not be  
7 affected by [his] **the child's** leaving the residence or household to avoid domestic  
8 violence.

9 3. Any protection order issued pursuant to sections 455.500 to 455.538  
10 shall be effective throughout the state in all cities and counties.

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 or that the respondent is  
4 less than seventeen years of age, the court may immediately issue an ex parte  
5 order of protection. An immediate and present danger of [abuse] **domestic**  
6 **violence or stalking** to a child shall constitute good cause for purposes of this  
7 section. An ex parte order of protection entered by the court shall be in effect  
8 until the time of the hearing. **The court shall deny the ex parte order and**  
9 **dismiss the petition if the petitioner is not authorized to seek relief**  
10 **pursuant to section 455.505.**

11 2. Upon the entry of the ex parte order of protection, the court shall enter  
12 its order appointing a guardian ad litem or court-appointed special advocate to  
13 represent the child victim.

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

20 4. If [an ex parte order is entered and] the allegations in the petition  
21 would give rise to jurisdiction under section 211.031 because the respondent is  
22 less than seventeen years of age, the court **may issue an ex parte order and**

23 shall transfer the case to juvenile court for a hearing on a full order of  
24 protection. Service of process shall be made pursuant to section 455.035.

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 domestic violence **or**  
3 **stalking** and may include such terms as the court reasonably deems necessary  
4 to ensure the [petitioner's] **victim's** safety, including but not limited to:

5 (1) Restraining the respondent from [abusing, threatening to abuse]  
6 **committing or threatening to commit domestic violence, stalking,**  
7 molesting, or disturbing the peace of the victim;

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

10 (3) Restraining the respondent from communicating with the victim in any  
11 manner or through any medium, 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 domestic violence present a substantial risk  
18 to the child or children unless the respondent is excluded; and

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.

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

5 (1) Temporarily enjoining the respondent from [abusing] **committing**  
6 **domestic violence**, threatening to [abuse] **commit domestic violence,**  
7 **stalking**, molesting, or disturbing the peace of the victim;

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

10 (3) Temporarily enjoining the respondent from communicating with the  
11 victim in any manner or through any medium, except as specifically authorized  
12 by the court.

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

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

19 (2) Award visitation;

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

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

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

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

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

33 (8) Order the respondent to pay a reasonable fee for housing and other  
34 services that have been provided or that are being provided to the victim by a  
35 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] **the officer** shall have  
4 the authority to arrest the respondent whether or not the violation occurred in  
5 the presence of 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 of  
15 protection with regard to [abuse] **domestic violence, stalking**, child custody,

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

30 (2) For purposes of this subsection, in addition to the notice provided by  
31 actual service of the order, a party is deemed to have notice of an order of  
32 protection for a child if the law enforcement officer responding to a call of a  
33 reported incident of [abuse] **domestic violence or stalking** or violation of an  
34 order of protection for a child presents a copy of the order of protection to the  
35 respondent.

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

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] **the person's** or any adjacent county, then such notice shall  
5 be given in a newspaper published in the City of St. Louis, or at the seat of  
6 government.

7 2. Public notice of such name change through publication as required in  
8 subsection 1 of this section shall not be required, **and any system operated by**  
9 **the judiciary that is designed to provide public case information**  
10 **electronically shall not post the name change**, if the petitioner is:

11 (1) The victim of a crime, the underlying factual basis of which is found  
12 by the court on the record to include an act of domestic violence, as defined in

13 section 455.010;

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

15 (3) The victim of [abuse] **domestic violence** by a family or household

16 member, as defined in section 455.010.

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