

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 980

90TH GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, March 9, 2000, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3861S.06C

AN ACT

To repeal sections 455.220, 455.230 and 565.090, RSMo 1994, and sections 375.1312, 455.010, 455.045, 455.050, 455.540, 455.543, 455.545 and 565.063, RSMo Supp. 1999, and to enact in lieu thereof sixteen 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 455.220, 455.230 and 565.090, RSMo 1994, and sections 375.1312, 455.010, 455.045, 455.050, 455.540, 455.543, 455.545 and 565.063, RSMo Supp. 1999, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 43.505, 375.1312, 455.010, 455.045, 455.050, 455.220, 455.230, 455.540, 455.543, 455.545, 455.550, 565.063, 565.072, 565.073, 565.074 and 565.090, to read as follows:

43.505. 1. The department of public safety is hereby designated as the central repository for the collection, maintenance, analysis and reporting of crime incident activity generated by law enforcement agencies in this state. The department shall develop and operate a uniform crime reporting system that is compatible with the national uniform crime reporting system operated by the Federal Bureau of Investigation.

2. The department of public safety shall:

(1) Develop, operate and maintain an information system for the collection, storage, maintenance, analysis and retrieval of crime incident and arrest reports from Missouri law enforcement agencies;

(2) Compile the statistical data and forward such data as required to the Federal

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

Bureau of Investigation in accordance with the standards and procedures of the national system;

(3) Provide the forms, formats, procedures, standards and related training or training assistance to all law enforcement agencies in the state as necessary for such agencies to report incident and arrest activity for timely inclusion into the statewide system;

(4) Annually publish a report on the nature and extent of crime and submit such report to the governor and the general assembly. Such report and other statistical reports shall be made available to state and local law enforcement agencies and the general public through an electronic or manual medium;

(5) Maintain the privacy and security of information in accordance with applicable state and federal laws, regulations and orders; and

(6) In accordance with the provisions of chapter 536, RSMo, establish such rules and regulations as are necessary for implementing the provisions of this section.

3. The department of public safety may:

(1) Enter into agreements with agencies or groups for statistical comparison of crime reports and related data, however, such reports shall not reveal the identity of the persons nor shall the receiving agency or group attempt to reestablish the identity of such persons; and

(2) Prepare special compilations of data from the uniform crime reporting system for nongovernmental agencies for a fee commensurate with resources expended. Such fee shall be allocated to the state's criminal justice technology funds.

4. Every law enforcement agency in the state shall:

(1) Submit crime incident reports to the department of public safety on forms or in the format prescribed by the department; and

(2) Submit any other crime incident information which may be required by the department of public safety.

5. Any law enforcement agency that violates this section shall not be eligible to receive state or federal funds which would otherwise be paid to such agency for law enforcement, safety or criminal justice purposes.

375.1312. 1. As used in this section, the following terms mean:

(1) "Domestic violence", the occurrence of **stalking or** one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally or knowingly causing bodily injury or physical harm;

(b) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person under circumstances that place the person in reasonable fear of bodily injury or

physical harm; or

(c) Knowingly committing forcible rape, sexual assault or forcible sodomy, as defined in chapter 566, RSMo;

(2) "Family or household member", [a spouse, former spouse, person living with another person, whether or not as spouses, parent or other adult person related by consanguinity or affinity who is residing or has resided with the person committing the domestic violence and dependents of such persons] **spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past and adults who have a child in common regardless of whether they have been married or have resided together at any time;**

(3) **"Innocent coinsured", an insured who did not cooperate in or contribute to the creation of a property loss and the loss arose out of a pattern of domestic violence;**

(4) **"Sole", a single act or a pattern of domestic violence which may include multiple acts;**

(5) **"Stalking", when an adult purposely and repeatedly harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause a reasonable adult to suffer substantial emotional distress. As used in this subdivision, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".**

2. No insurer shall do any of the following on the sole basis of the status of an insured or prospective insured as a victim of domestic violence:

(1) Deny, cancel or refuse to issue or renew an insurance policy;

(2) Require a greater premium, deductible or any other payment;

(3) Exclude or limit coverage for losses or deny a claim;

(4) Designate domestic violence as a preexisting condition for which coverage will be denied or reduced;

(5) Terminate group coverage solely because of claims relating to the fact that any individual in the group is or has been a victim of domestic violence; or

(6) Fix any lower rate or discriminate in the fees or commissions of an agent for writing or renewing a policy insuring an individual solely because an individual is or has been a victim of domestic violence.

3. The fact that an insured or prospective insured has been a victim of domestic violence shall not be considered a permitted underwriting or rating criterion.

4. Nothing in this section shall prohibit an insurer from taking an action described in

subsection 2 of this section if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic violence.

5. If an innocent coinsured files a police report and completes a sworn affidavit that indicates both the cause of the loss and a pledge to cooperate in any criminal prosecution of the person committing the act causing the loss, then no insurer shall deny payment on a property loss claim due to any policy provision that excludes coverage for intentional acts. Payment to the innocent coinsured may be limited to such innocent coinsured's ownership interest in the property as reduced by any payment to a mortgagor or other secured interest; however, insurers shall not be required to make any subsequent payment to any other insured for the part of any loss for which the innocent coinsured has received payment.

6. A violation of this section shall be subject to the provisions of sections 375.930 to 375.948, relating to unfair trade practices.

455.010. As used in sections 455.010 to 455.085, 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 [under] **pursuant to** sections 455.010 to 455.085:

(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;

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

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

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

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

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

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person

against that person's will;

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

(3) "Court", the circuit or associate circuit judge or a family court commissioner;

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

(5) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, **adults who are presently dating each other or have dated each other in the past, adults who are engaged to each other or have been engaged to each other in the past**, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

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

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

(8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition **[under] pursuant to** the provisions of section 455.020;

(9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;

(10) "Stalking" is when an adult purposely and repeatedly harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause a reasonable adult to suffer substantial emotional distress. As used in this subdivision, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".

455.045. Any ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Restraining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:

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

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

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

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

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

(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 sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner

and the petitioner requests alternative housing;

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

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

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

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

(11) Order the respondent to pay court costs;

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

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

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

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

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

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

455.220. 1. To qualify for funds allocated and distributed pursuant to section 455.215 a shelter shall meet all of the following requirements:

- (1) Be incorporated in the state as a nonprofit corporation;
- (2) Have trustees who represent the racial, ethnic and socioeconomic diversity of the community to be served, at least one of whom must possess personal experience in confronting or mitigating the problems of domestic violence;
- (3) Receive at least twenty-five percent of its funds from sources other than funds distributed pursuant to section 455.215. These other sources may be public or private and may include contributions of goods or services, including materials, commodities, transportation, office space or other types of facilities or personal services;
- (4) Provide residential service or facilities for children when accompanied by a parent, guardian, or custodian who is a victim of domestic violence and who is receiving temporary residential service at the shelter;
- (5) Require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter **and any information or records that are directly related to the advocacy services provided to such individuals;**
- (6) Prior to providing any advocacy services, inform individuals served by the shelter of the nature and scope of the confidentiality requirement in subdivision (5) of this subsection.**

2. Any person employed by or volunteering services to a shelter for victims of domestic violence shall be incompetent to testify concerning any confidential information described in subdivision (5) of subsection 1 of this section, unless the confidentiality requirement is waived in writing by the individual served by the shelter.

3. A shelter does not qualify for funds if it discriminates in its admissions or provision of services on the basis of race, religion, color, age, marital status, national origin, or ancestry.

455.230. 1. A shelter for victims of domestic violence that receives funds pursuant to sections 455.200 to 455.230 shall file an annual report with the designated authority of the county, or of the city not within a county, in which it is located, on or before the thirty-first day of March of the year following the year in which funds were received. The annual report shall include statistics on the number of persons served by the shelter, the relationship of the victim of domestic violence to the abuser, the number of referrals made for medical, psychological, financial, educational, vocational, child care services or legal services, and shall include the results of an independent audit. No information contained in the report shall identify any person served by the

shelter or enable any person to determine the identity of any such person. **Any information contained in the report that is directly related to advocacy services provided by the shelter shall not be construed as a violation of section 455.220.**

2. The designated authority shall compile the reports filed pursuant to subsection 1 of this section annually.

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

- (1) "Adult", any person eighteen years of age or older;
- (2) "Domestic violence", as provided in section 455.200[;
- (3) "Homicide", any crime which may be charged as one of the following: first degree murder pursuant to section 565.020, RSMo; second degree murder pursuant to section 565.021, RSMo; voluntary manslaughter pursuant to section 565.023, RSMo; or involuntary manslaughter pursuant to section 565.024, RSMo].

455.543. 1. [In any case involving a homicide where the victim is an adult, the local law enforcement agency with jurisdiction shall make a determination as to whether there is reason to believe the homicide is related to domestic violence.] **In any incident investigated by a law enforcement agency involving a homicide or suicide, the law enforcement agency shall make a determination as to whether the homicide or suicide is related to domestic violence, as defined in section 455.200.**

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

- (1) **If the relationship between the perpetrator and the victim is or was that of a family or household member, as defined in section 455.010;**
- (2) Whether the victim **or perpetrator** had previously filed for an order of protection [pursuant to this chapter];
- (3) Whether [such agency has previously investigated or received reports of alleged incidents of domestic violence against the victim] **any of the subjects involved in the incident had previously been investigated for incidents of domestic violence;** and
- (4) Any other evidence regarding the homicide **or suicide** that assists the agency in making its determination.

3. After making a determination as to whether the homicide **or suicide** is related to domestic violence, the [chief local] law enforcement [officer or his designee shall complete an appropriate form stating whether the homicide was related to domestic violence and which] **agency shall forward the information required within fifteen days to the Missouri state highway patrol on a form or format approved by the patrol. The required information** shall include the [name,] gender and age of the victim, **the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator.** The

state highway patrol shall develop a form for this purpose which shall be distributed by the department of public safety to all [local] law enforcement agencies by October 1, [1998] **2000**. Completed forms shall be forwarded to the highway patrol [no later than seven days after a suspect is arrested for the homicide] **without undue delay as required by section 43.500, RSMo; except that all such reports shall be forwarded no later than seven days after an incident is determined or identified as a homicide or suicide involving domestic violence.**

455.545. **1.** The highway patrol shall compile an annual report of homicides **and suicides** related to domestic violence. Such report shall be presented by February first of the subsequent year to the governor, speaker of the house of representatives, and president pro tempore of the senate.

2. Any information submitted to the highway patrol central repository pursuant to sections 43.500 to 43.530, RSMo, regarding a homicide determined to be related to domestic violence pursuant to section 455.543, shall include the defendant's Social Security number and shall be designated in the criminal history record information as a domestic violence offense.

455.550. All orders of protection issued pursuant to this chapter shall include the Social Security number of the respondent, if known.

565.063. 1. As used in this section, the following terms mean:

(1) "Domestic assault offense" [,]:

(a) The commission of the crime of domestic assault in the first degree pursuant to section 565.072 or domestic assault in the second degree pursuant to section 565.073; or

(b) The commission of the crime of assault in the first degree[,] pursuant to the provisions of section 565.050[,] or assault in the second degree pursuant to the provisions of section 565.060, if the victim of the assault was a family or household member;

(2) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, **adults who are presently dating each other or have dated each other in the past, adults who are engaged to each other or have been engaged to each other in the past,** and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(3) "Persistent domestic violence offender", a person who has pleaded guilty to or has been found guilty of two or more domestic assault offenses, where such two or more offenses occurred within ten years of the occurrence of the domestic assault offense for which the person is charged; and

(4) "Prior domestic violence offender", a person who has pleaded guilty to or has been found guilty of one domestic assault offense, where such prior offense occurred within five years of the

occurrence of the domestic assault offense for which the person is charged.

2. No court shall suspend the imposition of sentence as to a prior or persistent domestic violence offender pursuant to this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person be eligible for parole or probation until such person has served a minimum of six months imprisonment.

3. The court shall find the defendant to be a prior domestic violence offender or persistent domestic violence offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior domestic violence offender or persistent domestic violence offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior domestic violence offender or persistent domestic violence offender.

4. In a jury trial, such facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

5. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

6. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

7. The defendant may waive proof of the facts alleged.

8. Nothing in this section shall prevent the use of presentence investigations or commitments.

9. At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

10. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

11. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior domestic violence offenders or persistent domestic violence offenders.

12. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence,

the court shall enter its findings thereon.

13. Evidence of similar criminal convictions of domestic violence pursuant to this chapter, chapter 566, RSMo, or chapter 568, RSMo, within five years of the offense at issue, shall be admissible for the purposes of showing a past history of domestic violence.

14. Any person who has pleaded guilty to or been found guilty of a violation of section 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the offender is a prior domestic violence offender. The offender shall be sentenced to a class A felony which term shall be served without probation or parole if the court finds the offender is a persistent domestic violence offender or the prior domestic violence offender inflicts serious physical injury on the victim.

15. Any person who has pleaded guilty to or been found guilty of a violation of section 565.073 shall be sentenced:

(a) To the authorized term of imprisonment for a class B felony if the court finds the offender is a prior domestic violence offender; or

(b) To the authorized term of imprisonment for a class A felony if the court finds the offender is a persistent domestic violence offender.

16. The provisions of section 375.1312, RSMo, shall become effective on January 1, 1999.

565.072. 1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member, as defined in section 455.010, RSMo.

2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.

565.073. 1. A person commits the crime of domestic assault in the second degree if the act involves a family or household member, as defined in section 455.010, RSMo, and he or she:

(1) Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes serious physical injury to such family or household member; or

(3) Recklessly causes physical injury to such family or household member by means of any deadly weapon; or

(4) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument.

2. Domestic assault in the second degree is a class C felony.

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

the act involves a family or household member, as defined in section 455.010, RSMo, and:

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

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

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

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

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

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

3. A person who has pled guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members.

565.090. 1. A person commits the crime of harassment if for the purpose of frightening or disturbing another person, [he] **such person:**

(1) Communicates **through any medium, including by electronic mail**, in writing or by telephone, a threat to commit any felony; or

(2) Makes a telephone call or communicates **through any medium, including by electronic mail or** in writing, and uses coarse language offensive to one of average sensibility;
or

(3) Makes a telephone call anonymously; or

(4) Makes repeated telephone calls.

2. Harassment is a class A misdemeanor.