

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 320
96TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 7, 2011, with recommendation that the Senate Committee Substitute do pass.

1450S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 43.545, 211.031, 452.375, 455.010, 455.027, 455.035, 455.038, 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, 595.100, and 595.220, RSMo, and to enact in lieu thereof twenty-three 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, 455.038, 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455.513, 455.516, 455.520, 455.523, 455.538, 455.540, 455.543, 527.290, 565.074, 595.100, and 595.220, RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 43.545, 211.031, 452.375, 455.010, 455.027, 455.035, 455.038, 455.040, 455.050, 455.060, 455.085, 455.200, 455.513, 455.516, 455.520, 455.523, 455.538, 455.543, 455.549, 527.290, 565.074, 595.100, and 595.220, to read as follows:

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

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

10 resided together at any time.]

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, except abuse shall**
6 **not include abuse inflicted on a child by accidental means by an adult**
7 **household member or discipline of a child, including spanking, in a**
8 **reasonable manner:**

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

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

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

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

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

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

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

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

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

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

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

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

37 [(4)] (6) "Ex parte order of protection", an order of protection issued by
38 the court before the respondent has received notice of the petition or an
39 opportunity to be heard on it;

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

47 [(6)] (8) "Full order of protection", an order of protection issued after a
48 hearing on the record where the respondent has received notice of the proceedings
49 and has had an opportunity to be heard;

50 [(7)] (9) "Order of protection", either an ex parte order of protection or
51 a full order of protection;

52 [(8)] (10) **"Pending", exists or for which a hearing date has been**
53 **set;**

54 (11) "Petitioner", a family or household member [or an adult], **or any**
55 **person** who has been the victim of stalking, **or a person filing on behalf of**
56 **a child pursuant to section 455.503** who has filed a verified petition pursuant
57 to the provisions of section 455.020 **or section 455.505;**

58 [(9)] (12) "Respondent", the family or household member **alleged to**
59 **have committed an act of domestic violence**, or [adult] **person** alleged to
60 have committed an act of stalking, against whom a verified petition has been

61 filed;

62 [(10)] **(13)** "Stalking" is when [an adult] **any person** purposely and
63 repeatedly engages in an unwanted course of conduct that causes alarm to
64 another person when it is reasonable in that person's situation to have been
65 alarmed by the conduct. As used in this subdivision:

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

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

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

71 (c) "Repeated" means two or more incidents evidencing a continuity of
72 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.**

455.038. Every circuit clerk shall be responsible for providing information
2 to individuals petitioning for ex parte orders of protection regarding notification
3 of service of these orders of protection. Such notification to the petitioner is
4 required if the petitioner has registered a telephone number with the victim
5 notification system, established under subsection 3 of section 650.310. The
6 petitioner shall be informed of his or her option to receive notification of service
7 of an ex parte order of protection on the respondent by the circuit clerk and shall

8 be provided information on how to receive notification of service of ex parte orders
9 of protection. The local law enforcement agency or any other government agency
10 responsible for serving ex parte orders of protection shall **enter service**
11 **information into the Missouri uniform law enforcement system or**
12 **future secure electronic databases that are intended for law**
13 **enforcement use within twenty-four hours after the ex parte order is**
14 **served on the respondent or shall** notify the circuit clerk when no more
15 service attempts are planned by that agency. The provisions of this section shall
16 only apply to those circuit clerks able to access a statewide victim notification
17 system designed to provide notification of service of orders of 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 prior to the**
16 **expiration of the order.** If for good cause a hearing cannot be held on the
17 motion to renew **or the objection to an automatic renewal of** the full order
18 of protection prior to the expiration date of the originally issued full order of
19 protection, an ex parte order of protection may be issued until a hearing is held
20 on the motion. **When an automatic renewal is not authorized,** upon motion
21 by the petitioner, and after a hearing by the court, the second full order of
22 protection may be renewed for an additional period of time the court deems
23 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 is not required for
26 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 time,
31 and service of such notice shall take priority over service in other actions, except
32 those of a similar emergency nature. The court shall cause a copy of any full
33 order of protection to be served upon or mailed by certified mail to the respondent
34 at the respondent's last known address. Failure to serve or mail a copy of the full
35 order of protection to the respondent shall not affect the validity or enforceability
36 of a full order of protection.

37 3. A copy of any order of protection granted pursuant to sections 455.010
38 to 455.085 shall be issued to the petitioner and to the local law enforcement
39 agency in the jurisdiction where the petitioner resides. The clerk shall also issue
40 a copy of any order of protection to the local law enforcement agency responsible
41 for maintaining the Missouri uniform law enforcement system or any other
42 comparable law enforcement system the same day the order is granted. The law
43 enforcement agency responsible for maintaining MULES shall [enter information
44 contained in the order], for purposes of verification, within twenty-four hours
45 from the time the order is granted, **enter information contained in the order**
46 **including but not limited to any orders regarding child custody or**
47 **visitation and all specifics as to times and dates of custody or visitation**
48 **that are provided in the order.** A notice of expiration or of termination of any
49 order of protection **or any change in child custody or visitation within**
50 **that order** shall be issued to the local law enforcement agency and to the law
51 enforcement agency responsible for maintaining MULES or any other comparable
52 law enforcement system. The law enforcement agency responsible for
53 maintaining the applicable law enforcement system shall enter such information
54 in the system **within twenty-four hours of receipt of information**
55 **evidencing such expiration or termination.** The information contained in
56 an order of protection may be entered in the Missouri uniform law enforcement
57 system or comparable law enforcement system using a direct automated data
58 transfer from the court automated system to the law enforcement system.

59 4. **The court shall cause a copy of any objection filed by the**
60 **respondent and notice of the date set for the hearing on such objection**
61 **to an automatic renewal of a full order of protection for a period of one**
62 **year to be personally served upon the petitioner by personal process**

63 server as provided by law or by a sheriff or police officer at least three
64 days prior to such hearing. Such service of process shall be served at
65 the earliest time and shall take priority over service in other actions
66 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 any division of the 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.

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] **488.445** as the authority to
5 administer 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 **children's** division [of family services]
13 to conduct an investigation and to provide appropriate services. The division
14 shall submit a written investigative report to the court and to the juvenile officer
15 within thirty days of being ordered to do so. The report shall be made available
16 to the parties 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.**

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

35 is not required for a renewal 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; **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[]; 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 any division of the 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. The division of probation and parole within the
2 department of corrections shall promulgate rules to establish standards
3 and to adopt a credentialing process for any court-appointed batterer
4 intervention program.**

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

13 **authority and any rule proposed or adopted after August 28, 2011, shall**
14 **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 a violation of this section**, is guilty of
29 a class D felony for the third or any subsequent commission of the crime of
30 domestic assault. The offenses described in this subsection may be against the
31 same family or household member or against different family or household
32 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.

595.220. 1. The department of public safety shall make payments to
2 appropriate medical providers, out of appropriations made for that purpose, to
3 cover the reasonable charges of the forensic examination of persons who may be
4 a victim of a sexual offense if:

5 (1) The victim or the victim's guardian consents in writing to the
6 examination; and

7 (2) The report of the examination is made on a form approved by the
8 attorney general with the advice of the department of public safety. **The**
9 **department shall establish maximum reimbursement rates for charges**
10 **submitted under this section, which shall reflect the reasonable cost of**
11 **providing the forensic exam.**

12 2. A minor may consent to examination under this section. Such consent
13 is not subject to disaffirmance because of minority, and consent of parent or
14 guardian of the minor is not required for such examination. The appropriate
15 medical provider making the examination shall give written notice to the parent

16 or guardian of a minor that such an examination has taken place.

17 3. The attorney general, with the advice of the department of public
18 safety, shall develop the forms and procedures for gathering evidence during the
19 forensic examination under the provisions of this section. The department of
20 health and senior services shall develop a checklist, protocols, and procedures for
21 appropriate medical providers to refer to while providing medical treatment to
22 victims of a sexual offense, including those specific to victims who are minors.

23 4. Evidentiary collection kits shall be developed and made available,
24 subject to appropriation, to appropriate medical providers by the highway patrol
25 or its designees and eligible crime laboratories. Such kits shall be distributed
26 with the forms and procedures for gathering evidence during forensic
27 examinations of victims of a sexual offense to appropriate medical providers upon
28 request of the provider, in the amount requested, and at no charge to the medical
29 provider. All appropriate medical providers shall, with the written consent of the
30 victim, perform a forensic examination using the evidentiary collection kit, or
31 other collection procedures developed for victims who are minors, and forms and
32 procedures for gathering evidence following the checklist for any person
33 presenting as a victim of a sexual offense.

34 5. In reviewing claims submitted under this section, the department shall
35 first determine if the claim was submitted within ninety days of the examination.
36 If the claim is submitted within ninety days, the department shall, at a
37 minimum, use the following criteria in reviewing the claim: examination charges
38 submitted shall be itemized and fall within the definition of forensic examination
39 as defined in subdivision (3) of subsection 7 of this section.

40 6. All appropriate medical provider charges for eligible forensic
41 examinations shall be billed to and paid by the department of public safety. No
42 appropriate medical provider conducting forensic examinations and providing
43 medical treatment to victims of sexual offenses shall charge the victim for the
44 forensic examination. For appropriate medical provider charges related to the
45 medical treatment of victims of sexual offenses, if the victim is an eligible
46 claimant under the crime victims' compensation fund, the victim shall seek
47 compensation under sections 595.010 to 595.075.

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

49 (1) "Appropriate medical provider", any licensed nurse, physician, or
50 physician assistant, and any institution employing licensed nurses, physicians,
51 or physician assistants, provided that such licensed professionals are the only

52 persons at such institution to perform tasks under the provisions of this section;

53 (2) "Evidentiary collection kit", a kit used during a forensic examination
54 that includes materials necessary for appropriate medical providers to gather
55 evidence in accordance with the forms and procedures developed by the attorney
56 general for forensic examinations;

57 (3) "Forensic examination", an examination performed by an appropriate
58 medical provider on a victim of an alleged sexual offense to gather evidence for
59 the evidentiary collection kit or using other collection procedures developed for
60 victims who are minors;

61 (4) "Medical treatment", the treatment of all injuries and health concerns
62 resulting directly from a patient's sexual assault or victimization.

63 8. The department shall have authority to promulgate rules and
64 regulations necessary to implement the provisions of this section. Any rule or
65 portion of a rule, as that term is defined in section 536.010, that is created under
66 the authority delegated in this section shall become effective only if it complies
67 with and is subject to all of the provisions of chapter 536 and, if applicable,
68 section 536.028. This section and chapter 536 are nonseverable and if any of the
69 powers vested with the general assembly pursuant to chapter 536 to review, to
70 delay the effective date, or to disapprove and annul a rule are subsequently held
71 unconstitutional, then the grant of rulemaking authority and any rule proposed
72 or adopted after August 28, 2009, shall be invalid and void.

[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.]

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