

SECOND REGULAR SESSION

SENATE BILL NO. 871

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time February 29, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5969S.011

AN ACT

To repeal sections 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, 527.290, 565.072, 565.073, and 565.074, RSMo, and to enact in lieu thereof twenty-one new sections relating to domestic violence, with existing penalty provisions.

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

Section A. Sections 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, 527.290, 565.072, 565.073, and 565.074, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 455.015, 455.020, 455.030, 455.032, 455.035, 455.040, 455.045, 455.050, 455.060, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, 455.538, 527.290, 565.072, 565.073, and 565.074, to read as follows:

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

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

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

3. Any protection order issued pursuant to sections 455.010 to 455.085

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

9 shall be effective throughout the state in all cities and counties.

455.030. 1. When the court is unavailable after business hours or on
2 holidays or weekends, a verified petition for protection from [abuse] **domestic**
3 **violence** or a motion for hearing on violation of any order of protection under
4 sections 455.010 to 455.085 may be filed before any available court in the city or
5 county having jurisdiction to hear the petition pursuant to the guidelines
6 developed pursuant to subsection 4 of this section. An ex parte order may be
7 granted pursuant to section 455.035.

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

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

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

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

11 demonstrate the need for protection in Missouri.

12 455.035. 1. Upon the filing of a verified petition pursuant to sections
13 455.010 to 455.085 and for good cause shown in the petition, the court may
14 immediately issue an ex parte order of protection. An immediate and present
15 danger of [abuse] **domestic violence** to the petitioner **or the child on whose**
16 **behalf the petition is filed** shall constitute good cause for purposes of this
17 section. An ex parte order of protection entered by the court shall take effect
18 when entered and shall remain in effect until there is valid service of process and
19 a hearing is held on the motion. **The court shall deny the ex parte order**
20 **and dismiss the petition if the petitioner is not authorized to seek relief**
21 **pursuant to section 455.020.**

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

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

455.040. 1. Not later than fifteen days after the filing of a petition
[pursuant to sections 455.010 to 455.085] **that meets the requirements of**
section 455.020, a hearing shall be held unless the court deems, for good cause
shown, that a continuance should be granted. At the hearing, if the petitioner
has proved the allegation of [abuse] **domestic violence** or stalking by a
preponderance of the evidence, the court shall issue a full order of protection for
a period of time the court deems appropriate, except that the protective order
shall be valid for at least one hundred eighty days and not more than one
year. Upon motion by the petitioner, and after a hearing by the court, the full
order of protection may be renewed for a period of time the court deems
appropriate, except that the protective order shall be valid for at least one
hundred eighty days and not more than one year from the expiration date of the
originally issued full order of protection. The court may, upon finding that it is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (5) Order respondent to make or to continue to make rent or mortgage
35 payments on a residence occupied by the petitioner if the respondent is found to

36 have a duty to support the petitioner or other dependent household members;

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

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

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

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

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

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

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

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

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

69 6. The court shall grant to the noncustodial parent rights to visitation
70 with any minor child born to or adopted by the parties, unless the court finds,
71 after hearing, that visitation would endanger the child's physical health, impair

72 the child's emotional development or would otherwise conflict with the best
73 interests of the child, or that no visitation can be arranged which would
74 sufficiently protect the custodial parent from further [abuse] **domestic**
75 **violence**. The court may appoint a guardian ad litem or court-appointed special
76 advocate to represent the minor child in accordance with chapter 452 whenever
77 the custodial parent alleges that visitation with the noncustodial parent will
78 damage the minor child.

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

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

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

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

11 3. No order entered pursuant to sections 455.010 to 455.085 shall be res
12 judicata to any subsequent proceeding, including, but not limited to, any action
13 brought under chapter 452[, RSMo 1978, as amended].

14 4. All provisions of an order of protection shall terminate upon entry of
15 a decree of dissolution of marriage or legal separation except as to those
16 provisions which require the respondent to participate in a court-approved
17 counseling program or enjoin the respondent from abusing, molesting, stalking
18 or disturbing the peace of 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 order of the court granting a motion to terminate the
26 order of protection by the petitioner. [The court shall set the motion to dismiss
27 for hearing and both parties shall have an opportunity to be heard.] Prior to
28 terminating any order of protection, the court may [examine the circumstances
29 of the motion to dismiss and may] inquire of the petitioner or others **in camera**
30 in order to [assist the court in determining if] **determine whether the**
31 dismissal is voluntary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) A parent or guardian of the victim;

6 (2) A guardian ad litem or court-appointed special advocate appointed for
7 the victim; or

8 (3) The juvenile officer.

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

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

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

455.513. 1. Upon the filing of a verified petition under sections 455.500
2 to 455.538, for good cause shown in the petition, and upon finding that no prior
3 order regarding custody is pending or has been made or that the respondent is
4 less than seventeen years of age, the court may immediately issue an ex parte
5 order of protection. An immediate and present danger of [abuse] **domestic**
6 **violence** to a child shall constitute good cause for purposes of this section. An
7 ex parte order of protection entered by the court shall be in effect until the time
8 of the hearing. **The court shall deny the ex parte order and dismiss the**
9 **petition if the petitioner is not authorized to seek relief pursuant to**
10 **section 455.505.**

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

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

20 4. If [an ex parte order is entered and] the allegations in the petition
21 would give rise to jurisdiction under section 211.031 because the respondent is
22 less than seventeen years of age, the court **may issue an ex parte order and**
23 **shall transfer the case to juvenile court for a hearing on a full order of**
24 **protection.** Service of process shall be made pursuant to section 455.035.

455.520. 1. Any ex parte order of protection granted under sections

2 455.500 to 455.538 shall be to protect the victim from domestic violence and may
3 include such terms as the court reasonably deems necessary to ensure the
4 petitioner's safety, including but not limited to:

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

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

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

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

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

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

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

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

455.523. 1. Any full order of protection granted under sections 455.500
2 to 455.538 shall be to protect the victim from domestic violence and may include
3 such terms as the court reasonably deems necessary to ensure the petitioner's
4 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 communicating with the
10 victim in any manner or through any medium, except as specifically authorized
11 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
28 substance 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] **domestic violence** in violation of that order, [he]
4 **the officer** shall have the authority to arrest the respondent whether or not the
5 violation occurred in the presence of the arresting officer.

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

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

14 4. (1) Violation of the terms and conditions of an ex parte or full order of
15 protection with regard to [abuse] **domestic violence**, child custody,
16 communication initiated by the respondent, or entrance upon the premises of the
17 victim's dwelling unit or place of employment or school, or being within a certain
18 distance of the petitioner or a child of the petitioner, of which the respondent has
19 notice, shall be a class A misdemeanor, unless the respondent has previously

20 pleaded guilty to or has been found guilty in any division of the circuit court of
21 violating an ex parte order of protection or a full order of protection within five
22 years of the date of the subsequent violation, in which case the subsequent
23 violation shall be a class D felony. Evidence of a prior plea of guilty or finding
24 of guilt shall be heard by the court out of the presence of the jury prior to
25 submission of the case to the jury. If the court finds the existence of a prior plea
26 of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the
27 extent or duration of sentence or other disposition and shall not instruct the jury
28 as to the range of punishment or allow the jury to assess and declare the
29 punishment as a part of its verdict.

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

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

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

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

11 (1) The victim of a crime, the underlying factual basis of which is found
12 by the court on the record to include an act of domestic violence, as defined in
13 section 455.010;

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

15 (3) The victim of [abuse] **domestic violence** by a family or household
16 member, as defined in section 455.010.

565.072. 1. A person commits the crime of domestic assault in the first

2 degree if he or she attempts to kill or knowingly causes or attempts to cause
3 serious physical injury to a family or household member [or an adult who is or
4 has been in a continuing social relationship of a romantic or intimate nature with
5 the actor], as defined in section 455.010.

6 2. Domestic assault in the first degree is a class B felony unless in the
7 course thereof the actor inflicts serious physical injury on the victim or has
8 previously pleaded guilty to or been found guilty of committing this crime, in
9 which case it is a class A felony.

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

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

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

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

12 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
2 degree if the act involves a family or household member [or an adult who is or
3 has been in a continuing social relationship of a romantic or intimate nature with
4 the 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 committed
26 in violation of any county or municipal ordinance in any state, any state law, any
27 federal law, or any military law which, if committed in this state, would be a
28 violation of this section, is guilty of a class D felony for the third or any
29 subsequent commission of the crime of domestic assault. The offenses described
30 in this subsection may be against the same family or household member or
31 against different family or household members.

✓
Bill

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