

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 838
98TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, January 28, 2016, with recommendation that the Senate Committee Substitute do pass.

5527S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 455.050 and 455.523, RSMo, and to enact in lieu thereof two new sections relating to the transfer of wireless telephone numbers.

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

Section A. Sections 455.050 and 455.523, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 455.050 and 455.523, to
3 read as follows:

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, stalking, or sexual assault and may include such terms as the court
4 reasonably deems necessary to ensure the petitioner's safety, including but not
5 limited to:

6 (1) Temporarily enjoining the respondent from committing or threatening
7 to commit domestic violence, molesting, stalking, sexual assault, or disturbing the
8 peace of the petitioner;

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

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

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

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

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

19 (3) Temporarily enjoining the respondent from communicating with the

20 petitioner in any manner or through any medium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 committed by the respondent.

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

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

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

87 **9. (1) The court may, in order to ensure that a petitioner can**
88 **maintain an existing wireless telephone number or numbers, issue an**
89 **order, after notice and an opportunity to be heard, directing a wireless**
90 **service provider to transfer the billing responsibility for and rights to**
91 **the wireless telephone number or numbers to the petitioner, if the**

92 petitioner is not the wireless service accountholder.

93 (2) (a) The order transferring billing responsibility for and
94 rights to the wireless telephone number or numbers to the petitioner
95 shall list the name and billing telephone number of the accountholder,
96 the name and contact information of the person to whom the telephone
97 number or numbers will be transferred, and each telephone number to
98 be transferred to that person. The court shall ensure that the contact
99 information of the petitioner is not provided to the accountholder in
100 proceedings held under this chapter.

101 (b) The order shall be served on the wireless service provider's
102 agent for service of process listed with the secretary of state.

103 (c) If the wireless service provider cannot operationally or
104 technically effectuate the order due to certain circumstances, the
105 wireless service provider shall notify the petitioner within seventy-two
106 hours. Such circumstances shall include, but not be limited to, the
107 following:

108 a. The accountholder has already terminated the account;

109 b. The differences in network technology prevent the
110 functionality of a device on the network; or

111 c. There are geographic or other limitations on network or
112 service availability.

113 (3) (a) Upon transfer of billing responsibility for and rights to
114 a wireless telephone number or numbers to the petitioner under this
115 subsection by a wireless service provider, the petitioner shall assume
116 all financial responsibility for the transferred wireless telephone
117 number or numbers, monthly service costs, and costs for any mobile
118 device associated with the wireless telephone number or numbers.

119 (b) This section shall not preclude a wireless service provider
120 from applying any routine and customary requirements for account
121 establishment to the petitioner as part of this transfer of billing
122 responsibility for a wireless telephone number or numbers and any
123 devices attached to that number or numbers including, but not limited
124 to, identification, financial information, and customer preferences.

125 (4) This section shall not affect the ability of the court to
126 apportion the assets and debts of the parties as provided for in law, or
127 the ability to determine the temporary use, possession, and control of
128 personal property.

129 **(5) No cause of action shall lie against any wireless service**
130 **provider, its officers, employees, or agents, for actions taken in**
131 **accordance with the terms of a court order issued under this section.**

132 **(6) As used in this section and section 455.523, a "wireless service**
133 **provider" means a provider of commercial mobile service under Section**
134 **332(d) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section**
135 **151, et seq.).**

 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, stalking, and
3 sexual assault may include such terms as the court reasonably deems necessary
4 to ensure the petitioner's safety, including but not limited to:

5 (1) Temporarily enjoining the respondent from committing domestic
6 violence or sexual assault, threatening to commit domestic violence or sexual
7 assault, stalking, molesting, or disturbing the peace of the victim;

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

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

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

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

19 (2) Award visitation;

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

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

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

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

35 (9) **Order a wireless service provider, in accordance with the**
36 **process, provisions, and requirements set out in subdivisions (1) to (6)**
37 **of subsection 9 of section 455.050, to transfer the billing responsibility**
38 **for and rights to the wireless telephone number or numbers of any**
39 **minor children in the petitioner's care to the petitioner, if the**
40 **petitioner is not the wireless service accountholder.**

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