

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 415

AN ACT

To repeal section 455.040, RSMo, and to enact in lieu thereof one new section relating to orders of protection.

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

Section A. Section 455.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 455.040, to read as follows:

455.040. 1. (1) Not later than fifteen days after the filing of a petition 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 domestic violence, stalking, or sexual assault by a preponderance of the evidence, and the respondent cannot show that his or her actions alleged to constitute abuse were otherwise justified under the law, the court shall issue a full order of protection for a period of time the court deems appropriate, and unless after an evidentiary hearing the court makes specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, [except that] the protective order shall be valid for at least one hundred eighty days and not more than one year. If, after an evidentiary hearing, the court makes specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner,

the protective order shall be valid for at least two years
and not more than ten years.

(2) Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed annually and for a period of time the court deems appropriate, and unless the court at an evidentiary hearing made specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, [except that] the renewed protective order may be renewed periodically and shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the [originally] previously issued full order of protection. If the court has made specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, the renewed protective order may be renewed periodically and shall be valid for at least two years and up to the life of the respondent.

(3) The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection [for one year] shall be automatically renew renewed for any term of renewal of a full order of protection as set forth in this section unless the respondent requests a hearing by thirty days prior to the expiration of the order. If for good cause a hearing cannot be held on the motion to renew or the objection to an automatic renewal of the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. When an automatic renewal is not authorized, upon motion by the petitioner, and after a hearing by the court, the second full order of

protection may be renewed for an additional 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] any term of renewal of a full order as set forth in this section. For purposes of this subsection, a finding by the court of a subsequent act of domestic violence, stalking, or sexual assault is not required for a renewal order of protection.

(4) In determining under this section whether a respondent poses a serious danger to the physical or mental health of a petitioner or of a minor household member of the petitioner, the court shall consider all relevant evidence including, but not limited to:

- (a) The weight of the evidence;
- (b) The respondent's history of inflicting or causing physical harm, bodily injury, or assault;
- (c) The respondent's history of stalking or causing fear of physical harm, bodily injury, or assault on the petitioner or a minor household member of the petitioner;
- (d) The respondent's criminal record;
- (e) Whether any prior full orders of adult or child protection have been issued against the respondent;
- (f) Whether the respondent has been found guilty of any dangerous felony under Missouri law; and
- (g) Whether the respondent violated any term or terms of probation or parole or violated any term of a prior full or temporary order of protection and which violated terms were intended to protect the petitioner or a minor household member of the petitioner.

(5) If a court finds that a respondent poses a serious risk to the physical or mental health of the petitioner or of a minor household member of the petitioner, the court shall not modify such order until a period of at least two

years from the date the original full order was issued and
only after the court makes specific written findings after a
hearing held that the respondent has shown proof of
treatment and rehabilitation and that the respondent no
longer poses a serious danger to the petitioner or to a
minor household member of the petitioner.

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

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. [The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall, for purposes of verification, within twenty-four hours from the time the order is granted,] The court shall provide all necessary information,

including the respondent's relationship to the petitioner,
for entry of the order of protection into the Missouri
Uniform Law Enforcement System (MULES) and the National
Crime Information Center (NCIC). Upon receiving the order
under this subsection, the sheriff shall make the entry into
MULES within twenty-four hours. MULES shall forward the
order information to NCIC, which will in turn make the order
viewable within the National Instant Criminal Background
Check System (NICS). The sheriff shall enter information
contained in the order, including, but not limited to, any
orders regarding child custody or visitation and all
specifics as to times and dates of custody or visitation
that are provided in the order. A notice of expiration or
of termination of any order of protection or any change in
child custody or visitation within that order shall be
issued to the local law enforcement agency [and to the law
enforcement agency responsible for maintaining] for entry

into MULES or any other comparable law enforcement system.

[The law enforcement agency responsible for maintaining the
applicable law enforcement system shall enter such
information in the system within twenty-four hours of
receipt of information evidencing such expiration or
termination.] The information contained in an order of
protection may be entered [in the Missouri uniform law
enforcement system] into MULES or any other comparable law
enforcement system using a direct automated data transfer
from the court automated system to the law enforcement
system.

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

by law or by a sheriff or police officer at least three days prior to such hearing. Such service of process shall be served at the earliest time and shall take priority over service in other actions except those of a similar emergency nature.