

SENATE BILL NO. 71

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

1081S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, RSMo, and to enact in lieu thereof eight new sections relating to pet protective orders.

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

Section A. Sections 455.010, 455.032, 455.035, 455.045,
2 455.050, 455.513, 455.520, and 455.523, RSMo, are repealed and
3 eight new sections enacted in lieu thereof, to be known as
4 sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513,
5 455.520, and 455.523, to read as follows:

455.010. As used in this chapter, unless the context
2 clearly indicates otherwise, the following terms shall mean:

3 (1) "Abuse" includes but is not limited to the
4 occurrence of any of the following acts, attempts or threats
5 against a person who may be protected pursuant to this
6 chapter, except abuse shall not include abuse inflicted on a
7 child by accidental means by an adult household member or
8 discipline of a child, including spanking, in a reasonable
9 manner:

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

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

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

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

16 right to abstain or to abstain from conduct in which the
17 person has a right to engage;

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

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

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

30 (e) "Sexual assault", causing or attempting to cause
31 another to engage involuntarily in any sexual act by force,
32 threat of force, duress, or without that person's consent;

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

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

38 (3) "Child", any person under seventeen years of age
39 unless otherwise emancipated;

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

42 (5) "Domestic violence", abuse or stalking committed
43 by a family or household member, as such terms are defined
44 in this section;

45 (6) "Ex parte order of protection", an order of
46 protection issued by the court before the respondent has

47 received notice of the petition or an opportunity to be
48 heard on it;

49 (7) "Family" or "household member", spouses, former
50 spouses, any person related by blood or marriage, persons
51 who are presently residing together or have resided together
52 in the past, any person who is or has been in a continuing
53 social relationship of a romantic or intimate nature with
54 the victim, and anyone who has a child in common regardless
55 of whether they have been married or have resided together
56 at any time;

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

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

63 (10) "Pending", exists or for which a hearing date has
64 been set;

65 (11) **"Pet", a living creature maintained by a**
66 **household member for companionship and not for commercial**
67 **purposes;**

68 (12) "Petitioner", a family or household member who
69 has been a victim of domestic violence, or any person who
70 has been the victim of stalking or sexual assault, or a
71 person filing on behalf of a child pursuant to section
72 455.503 who has filed a verified petition pursuant to the
73 provisions of section 455.020 or section 455.505;

74 [(12)] (13) "Respondent", the family or household
75 member alleged to have committed an act of domestic
76 violence, or person alleged to have committed an act of
77 stalking or sexual assault, against whom a verified petition

78 has been filed or a person served on behalf of a child
79 pursuant to section 455.503;

80 [(13)] (14) "Sexual assault", as defined under
81 subdivision (1) of this section;

82 [(14)] (15) "Stalking" is when any person purposely
83 engages in an unwanted course of conduct that causes alarm
84 to another person, or a person who resides together in the
85 same household with the person seeking the order of
86 protection when it is reasonable in that person's situation
87 to have been alarmed by the conduct. As used in this
88 subdivision:

89 (a) "Alarm" means to cause fear of danger of physical
90 harm; and

91 (b) "Course of conduct" means a pattern of conduct
92 composed of two or more acts over a period of time, however
93 short, that serves no legitimate purpose. Such conduct may
94 include, but is not limited to, following the other person
95 or unwanted communication or unwanted contact.

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

14 of Missouri, such evidence shall be admissible to
15 demonstrate the need for protection in Missouri.

455.035. 1. Upon the filing of a verified petition
2 pursuant to sections 455.010 to 455.085 and for good cause
3 shown in the petition, the court may immediately issue an ex
4 parte order of protection. An immediate and present danger
5 of domestic violence to the petitioner or the child on whose
6 behalf the petition is filed, **or an immediate and present**
7 **danger to a pet**, shall constitute good cause for purposes of
8 this section. An ex parte order of protection entered by
9 the court shall take effect when entered and shall remain in
10 effect until there is valid service of process and a hearing
11 is held on the motion. The court shall deny the ex parte
12 order and dismiss the petition if the petitioner is not
13 authorized to seek relief pursuant to section 455.020.

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

23 3. If an ex parte order is entered and the respondent
24 is less than seventeen years of age, the court shall
25 transfer the case to juvenile court for a hearing on a full
26 order of protection. The court shall appoint a guardian ad
27 litem for any such respondent not represented by a parent or
28 guardian.

455.045. Any ex parte order of protection granted
2 pursuant to sections 455.010 to 455.085 shall be to protect

3 the petitioner from domestic violence, stalking, or sexual
4 assault and may include:

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

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

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

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

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

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

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

25 (4) A temporary order of custody of minor children
26 where appropriate;

27 **(5) A temporary order of custody of pets where**
28 **appropriate.**

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

7 (1) Temporarily enjoining the respondent from
8 committing or threatening to commit domestic violence,
9 molesting, stalking, sexual assault, or disturbing the peace
10 of the petitioner, **including violence against a pet;**

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

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

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

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

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

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

29 2. Mutual orders of protection are prohibited unless
30 both parties have properly filed written petitions and
31 proper service has been made in accordance with sections
32 455.010 to 455.085.

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

36 (1) Award custody of any minor child born to or
37 adopted by the parties when the court has jurisdiction over
38 such child and no prior order regarding custody is pending

39 or has been made, and the best interests of the child
40 require such order be issued;

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

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

45 (4) Award maintenance to petitioner when petitioner
46 and respondent are lawfully married in accordance with
47 chapter 452;

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

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

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

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

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

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

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

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

77 **(13) Award custody and care of any pet, along with any**
78 **moneys necessary to cover medical costs that may have**
79 **resulted from abuse of the pet.**

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

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

97 6. The court shall grant to the noncustodial parent
98 rights to visitation with any minor child born to or adopted
99 by the parties, unless the court finds, after hearing, that
100 visitation would endanger the child's physical health,
101 impair the child's emotional development or would otherwise
102 conflict with the best interests of the child, or that no

103 visitation can be arranged which would sufficiently protect
104 the custodial parent from further domestic violence. The
105 court may appoint a guardian ad litem or court-appointed
106 special advocate to represent the minor child in accordance
107 with chapter 452 whenever the custodial parent alleges that
108 visitation with the noncustodial parent will damage the
109 minor child.

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

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

121 9. (1) The court may, in order to ensure that a
122 petitioner can maintain an existing wireless telephone
123 number or numbers, issue an order, after notice and an
124 opportunity to be heard, directing a wireless service
125 provider to transfer the billing responsibility for and
126 rights to the wireless telephone number or numbers to the
127 petitioner, if the petitioner is not the wireless service
128 accountholder.

129 (2) (a) The order transferring billing responsibility
130 for and rights to the wireless telephone number or numbers
131 to the petitioner shall list the name and billing telephone
132 number of the accountholder, the name and contact
133 information of the person to whom the telephone number or
134 numbers will be transferred, and each telephone number to be

135 transferred to that person. The court shall ensure that the
136 contact information of the petitioner is not provided to the
137 accountholder in proceedings held under this chapter.

138 (b) Upon issuance, a copy of the full order of
139 protection shall be transmitted, either electronically or by
140 certified mail, to the wireless service provider's
141 registered agent listed with the secretary of state, or
142 electronically to the email address provided by the wireless
143 service provider. Such transmittal shall constitute
144 adequate notice for the wireless service provider acting
145 under this section and section 455.523.

146 (c) If the wireless service provider cannot
147 operationally or technically effectuate the order due to
148 certain circumstances, the wireless service provider shall
149 notify the petitioner within three business days. Such
150 circumstances shall include, but not be limited to, the
151 following:

152 a. The accountholder has already terminated the
153 account;

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

156 c. There are geographic or other limitations on
157 network or service availability.

158 (3) (a) Upon transfer of billing responsibility for
159 and rights to a wireless telephone number or numbers to the
160 petitioner under this subsection by a wireless service
161 provider, the petitioner shall assume all financial
162 responsibility for the transferred wireless telephone number
163 or numbers, monthly service costs, and costs for any mobile
164 device associated with the wireless telephone number or
165 numbers.

166 (b) This section shall not preclude a wireless service
167 provider from applying any routine and customary
168 requirements for account establishment to the petitioner as
169 part of this transfer of billing responsibility for a
170 wireless telephone number or numbers and any devices
171 attached to that number or numbers including, but not
172 limited to, identification, financial information, and
173 customer preferences.

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

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

182 (6) As used in this section and section 455.523, a
183 "wireless service provider" means a provider of commercial
184 mobile service under Section 332(d) of the Federal
185 Telecommunications Act of 1996 (47 U.S.C. Section 151, et
186 seq.).

455.513. 1. The court may immediately issue an ex
2 parte order of protection upon the filing of a verified
3 petition under sections 455.500 to 455.538, for good cause
4 shown in the petition, and upon finding that:

5 (1) No prior order regarding custody involving the
6 respondent and the child is pending or has been made; or

7 (2) The respondent is less than seventeen years of age.

8 An immediate and present danger of domestic violence,
9 **including danger to the child's pet**, stalking, or sexual
10 assault to a child shall constitute good cause for purposes

11 of this section. An ex parte order of protection entered by
12 the court shall be in effect until the time of the hearing.
13 The court shall deny the ex parte order and dismiss the
14 petition if the petitioner is not authorized to seek relief
15 pursuant to section 455.505.

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

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

28 4. If the allegations in the petition would give rise
29 to jurisdiction under section 211.031 because the respondent
30 is less than seventeen years of age, the court may issue an
31 ex parte order and shall transfer the case to juvenile court
32 for a hearing on a full order of protection. Service of
33 process shall be made pursuant to section 455.035.

455.520. 1. Any ex parte order of protection granted
2 under sections 455.500 to 455.538 shall be to protect the
3 victim from domestic violence, **including danger to the**
4 **child's pet**, stalking, or sexual assault and may include
5 such terms as the court reasonably deems necessary to ensure
6 the victim's safety, including but not limited to:

7 (1) Restraining the respondent from committing or
8 threatening to commit domestic violence, stalking, sexual
9 assault, molesting, or disturbing the peace of the victim;

10 (2) Restraining the respondent from entering the
11 family home of the victim except as specifically authorized
12 by the court;

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

16 (4) A temporary order of custody of minor children;

17 **(5) A temporary order of custody of pets where**
18 **appropriate.**

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

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

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

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

455.523. 1. Any full order of protection granted
2 under sections 455.500 to 455.538 shall be to protect the
3 victim from domestic violence, **including danger to the**
4 **child's pet**, stalking, and sexual assault may include such
5 terms as the court reasonably deems necessary to ensure the
6 petitioner's safety, including but not limited to:

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

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

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

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

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

25 (2) Award visitation;

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

28 (4) Award maintenance to petitioner when petitioner
29 and respondent are lawfully married in accordance with
30 chapter 452;

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

35 (6) Order the respondent to participate in a court-
36 approved counseling program designed to help stop violent
37 behavior or to treat substance abuse;

38 (7) Order the respondent to pay, to the extent that he
39 or she is able, the costs of his or her treatment, together
40 with the treatment costs incurred by the victim;

41 (8) Order the respondent to pay a reasonable fee for
42 housing and other services that have been provided or that

43 are being provided to the victim by a shelter for victims of
44 domestic violence;

45 (9) Order a wireless service provider, in accordance
46 with the process, provisions, and requirements set out in
47 subdivisions (1) to (6) of subsection 9 of section 455.050,
48 to transfer the billing responsibility for and rights to the
49 wireless telephone number or numbers of any minor children
50 in the petitioner's care to the petitioner, if the
51 petitioner is not the wireless service accountholder;

52 (10) **Award custody and care of any pet, along with any**
53 **moneys necessary to cover medical costs that may have**
54 **resulted from abuse of the pet.**

✓