

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 341

98TH GENERAL ASSEMBLY

2015

1561H..04T

AN ACT

To repeal sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof twenty-one new sections relating to the protection of vulnerable persons, with penalty provisions.

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

Section A. Sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032,
2 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and
3 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh
4 general assembly, second regular session, section 455.085 as enacted by house bill
5 no. 215, ninety-seventh general assembly, first regular session, section 455.538
6 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular
7 session, and section 455.538 as enacted by house bill no. 215, ninety-seventh
8 general assembly, first regular session, are repealed and twenty-one new sections
9 enacted in lieu thereof, to be known as sections 37.719, 160.975, 210.003, 210.148,
10 210.221, 210.223, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050,
11 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, and 455.538, to

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

12 read as follows:

37.719. 1. The office shall have the authority to and may conduct
2 an independent review of any entity within a county that has
3 experienced three or more review requests in a calendar year
4 including, but not limited to, children's division, the juvenile office, or
5 guardian ad litem. The office shall establish and implement procedures
6 for reviewing any such entity.

7 2. The office shall have the authority to make the necessary
8 inquiries and review relevant information and records as the office
9 deems necessary in order to conduct such reviews.

10 3. The office may make recommendations on changes to any
11 entity's policies and procedures based on the results of the review in
12 order to improve the delivery of services or the function of the
13 entity. Upon completing a review under the provisions of this section,
14 the office shall submit any findings and recommendations to the
15 children's division and the office of state courts administrator.

160.975. 1. Each public school and charter school shall post in
2 a clearly visible location in a public area of the school that is readily
3 accessible to students a sign in English and in Spanish that contains
4 the toll-free child abuse and neglect hotline number established by the
5 children's division under section 210.145. Additionally, each school
6 shall post signs containing the same information in all student
7 restrooms in the school, to allow for private access to the information
8 by students of either gender.

9 2. The information contained on the signs required under
10 subsection 1 of this section shall be presented on a poster at least 11
11 inches by 17 inches in size, contain large print, and be placed at eye
12 level to the student for easy viewing. The hotline number shall be
13 displayed in bold print. The signs shall contain instructions to call 911
14 for emergencies and directions for accessing the children's division
15 website for more information on reporting abuse, neglect, and
16 exploitation.

17 3. The children's division shall create an acronym to help
18 children to remember the toll-free child abuse and neglect hotline
19 number.

20 4. The children's division may promulgate all necessary rules
21 and regulations for the administration of this section. Any rule or

22 **portion of a rule, as that term is defined in section 536.010, that is**
23 **created under the authority delegated in this section shall become**
24 **effective only if it complies with and is subject to all of the provisions**
25 **of chapter 536 and, if applicable, section 536.028. This section and**
26 **chapter 536 are nonseverable, and if any of the powers vested with the**
27 **general assembly pursuant to chapter 536 to review, to delay the**
28 **effective date, or to disapprove and annul a rule are subsequently held**
29 **unconstitutional, then the grant of rulemaking authority and any rule**
30 **proposed or adopted after August 28, 2015, shall be invalid and void.**

210.003. 1. No child shall be permitted to enroll in or attend any public,
2 private or parochial day care center, preschool or nursery school caring for ten or
3 more children unless such child has been adequately immunized against vaccine-
4 preventable childhood illnesses specified by the department of health and senior
5 services in accordance with recommendations of the [Immunization Practices
6 Advisory Committee] **Centers for Disease Control and Prevention**
7 **Advisory Committee on Immunization Practices (ACIP)**. The parent or
8 guardian of such child shall provide satisfactory evidence of the required
9 immunizations.

10 2. A child who has not completed all immunizations appropriate for his
11 age may enroll, if:

12 (1) Satisfactory evidence is produced that such child has begun the
13 process of immunization. The child may continue to attend as long as the
14 immunization process is being accomplished according to the ACIP/Missouri
15 department of health and senior services recommended schedule; or

16 (2) The parent or guardian has signed and placed on file with the day care
17 administrator a statement of exemption which may be either of the following:

18 (a) A medical exemption, by which a child shall be exempted from the
19 requirements of this section upon certification by a licensed physician that such
20 immunization would seriously endanger the child's health or life; or

21 (b) A parent or guardian exemption, by which a child shall be exempted
22 from the requirements of this section if one parent or guardian files a written
23 objection to immunization with the day care administrator. Exemptions shall be
24 accepted by the day care administrator when the necessary information as
25 determined by the department of health and senior services is filed with the day
26 care administrator by the parent or guardian. Exemption forms shall be provided
27 by the department of health and senior services.

28 3. In the event of an outbreak or suspected outbreak of a vaccine-
29 preventable disease within a particular facility, the administrator of the facility
30 shall follow the control measures instituted by the local health authority or the
31 department of health and senior services or both the local health authority and
32 the department of health and senior services, as established in Rule 19 CSR 20-
33 20.040, "Measures for the Control of Communicable Diseases".

34 4. The administrator of each public, private or parochial day care center,
35 preschool or nursery school shall cause to be prepared a record of immunization
36 of every child enrolled in or attending a facility under his jurisdiction. An annual
37 summary report shall be made by January fifteenth showing the immunization
38 status of each child enrolled, using forms provided for this purpose by the
39 department of health and senior services. The immunization records shall be
40 available for review by department of health and senior services personnel upon
41 request.

42 5. For purposes of this section, satisfactory evidence of immunization
43 means a statement, certificate or record from a physician or other recognized
44 health facility or personnel, stating that the required immunizations have been
45 given to the child and verifying the type of vaccine and the month, day and year
46 of administration.

47 6. Nothing in this section shall preclude any political subdivision from
48 adopting more stringent rules regarding the immunization of preschool children.

49 **7. All public, private, and parochial day care centers, preschools,**
50 **and nursery schools shall notify the parent or guardian of each child**
51 **at the time of initial enrollment in or attendance at the facility that the**
52 **parent or guardian may request notice of whether there are children**
53 **currently enrolled in or attending the facility for whom an**
54 **immunization exemption has been filed. Beginning December 1, 2015,**
55 **all public, private, and parochial day care centers, preschools, and**
56 **nursery schools shall notify the parent or guardian of each child**
57 **currently enrolled in or attending the facility that the parent or**
58 **guardian may request notice of whether there are children currently**
59 **enrolled in or attending the facility for whom an immunization**
60 **exemption has been filed. Any public, private, or parochial day care**
61 **center, preschool, or nursery school shall notify the parent or guardian**
62 **of a child enrolled in or attending the facility, upon request, of whether**
63 **there are children currently enrolled in or attending the facility for**

64 whom an immunization exemption has been filed.

210.148. 1. Notwithstanding any provision of section 210.145 to
2 the contrary, upon the receipt of a report under section 210.145 where
3 the subject of the report is a juvenile with problem sexual behavior, the
4 division shall immediately communicate such report to the appropriate
5 local office along with any relevant information as may be contained in
6 the information system. Upon receipt of the report and relevant
7 information, the local office shall use a family assessment and services
8 approach, as described in subsection 14 of section 210.145 to respond
9 to the allegation contained in the report. For the purposes of family
10 assessments performed under this section, the alleged abuse does not
11 have to be committed by a person responsible for the care, custody, and
12 control of the child.

13 2. Nothing in this section shall prohibit the local office from
14 commencing an investigation if the local office, at any point in using
15 the family assessment and services approach, determines that an
16 investigation is required. Such investigation shall comply with the
17 provisions of section 210.145 and may include requesting assistance
18 from the appropriate law enforcement agency.

19 3. As used in this section, the term "juvenile with problem sexual
20 behavior" shall mean any person, under fourteen years of age, who has
21 allegedly committed sexual abuse against another child.

22 4. Within one hundred eighty days after August 28, 2015, the
23 division shall promulgate rules to implement the provisions of this
24 section. Any rule or portion of a rule, as that term is defined in section
25 536.010 that is created under the authority delegated in this section
26 shall become effective only if it complies with and is subject to all of
27 the provisions of chapter 536, and, if applicable, section 536.028. This
28 section and chapter 536 are nonseverable, and if any of the powers
29 vested with the general assembly pursuant to chapter 536, to review, to
30 delay the effective date, or to disapprove and annul a rule are
31 subsequently held unconstitutional, then the grant of rulemaking
32 authority and any rule proposed or adopted after August 28, 2015, shall
33 be invalid and void.

210.221. 1. The department of health and senior services shall have the
2 following powers and duties:

3 (1) After inspection, to grant licenses to persons to operate child-care

4 facilities if satisfied as to the good character and intent of the applicant and that
5 such applicant is qualified and equipped to render care or service conducive to the
6 welfare of children, and to renew the same when expired. No license shall be
7 granted for a term exceeding two years. Each license shall specify the kind of
8 child-care services the licensee is authorized to perform, the number of children
9 that can be received or maintained, and their ages and sex;

10 (2) To inspect the conditions of the homes and other places in which the
11 applicant operates a child-care facility, inspect their books and records, premises
12 and children being served, examine their officers and agents, deny, suspend, place
13 on probation or revoke the license of such persons as fail to obey the provisions
14 of sections 210.201 to 210.245 or the rules and regulations made by the
15 department of health and senior services. The director also may revoke or
16 suspend a license when the licensee fails to renew or surrenders the license;

17 (3) To promulgate and issue rules and regulations the department deems
18 necessary or proper in order to establish standards of service and care to be
19 rendered by such licensees to children. No rule or regulation promulgated by the
20 division shall in any manner restrict or interfere with any religious instruction,
21 philosophies or ministries provided by the facility and shall not apply to facilities
22 operated by religious organizations which are not required to be licensed; [and]

23 (4) **To approve training concerning the safe sleep**
24 **recommendations of the American Academy of Pediatrics in accordance**
25 **with section 210.223; and**

26 (5) To determine what records shall be kept by such persons and the form
27 thereof, and the methods to be used in keeping such records, and to require
28 reports to be made to the department at regular intervals.

29 2. Any child-care facility may request a variance from a rule or regulation
30 promulgated pursuant to this section. The request for a variance shall be made
31 in writing to the department of health and senior services and shall include the
32 reasons the facility is requesting the variance. The department shall approve any
33 variance request that does not endanger the health or safety of the children
34 served by the facility. The burden of proof at any appeal of a disapproval of a
35 variance application shall be with the department of health and senior
36 services. Local inspectors may grant a variance, subject to approval by the
37 department of health and senior services.

38 3. The department shall deny, suspend, place on probation or revoke a
39 license if it receives official written notice that the local governing body has found

40 that license is prohibited by any local law related to the health and safety of
41 children. The department may, after inspection, find the licensure, denial of
42 licensure, suspension or revocation to be in the best interest of the state.

43 4. Any rule or portion of a rule, as that term is defined in section 536.010,
44 that is created under the authority delegated in sections 210.201 to 210.245 shall
45 become effective only if it complies with and is subject to all of the provisions of
46 chapter 536, and, if applicable, section 536.028. All rulemaking authority
47 delegated prior to August 28, 1999, is of no force and effect and
48 repealed. Nothing in this section shall be interpreted to repeal or affect the
49 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
50 with all applicable provisions of law. This section and chapter 536 are
51 nonseverable and if any of the powers vested with the general assembly pursuant
52 to chapter 536 to review, to delay the effective date or to disapprove and annul
53 a rule are subsequently held unconstitutional, then the grant of rulemaking
54 authority and any rule proposed or adopted after August 28, 1999, shall be
55 invalid and void.

**210.223. 1. All licensed child care facilities that provide care for
2 children less than one year of age shall implement and maintain a
3 written safe sleep policy in accordance with the most recent safe sleep
4 recommendations of the American Academy of Pediatrics. The purpose
5 of the safe sleep policy is to maintain a safe sleep environment that
6 reduces the risk of sudden infant death syndrome and sudden
7 unexpected infant deaths in children less than one year of age.**

8 **2. When, in the opinion of the infant's licensed health care
9 provider, an infant requires alternative sleep positions or special
10 sleeping arrangements that differ from those set forth in the most
11 recent sleep recommendations of the American Academy of Pediatrics,
12 the child care facility shall be provided with written instructions,
13 signed by the infant's licensed health care provider, detailing the
14 alternative sleep positions or special sleeping arrangements for such
15 infant. The child care facility shall put the infant to sleep in
16 accordance with such written instructions.**

17 **3. As used in this section, the following terms shall mean:**

18 **(1) "Sudden infant death syndrome", the sudden death of an
19 infant less than one year of age that cannot be explained after a
20 thorough investigation has been conducted, including a complete**

21 autopsy, an examination of the death scene, and a review of the clinical
22 history;

23 (2) "Sudden unexpected infant death", the sudden and unexpected
24 death of an infant less than one year of age in which the manner and
25 cause of death are not immediately obvious prior to
26 investigation. Causes of sudden unexpected infant death include, but
27 are not limited to, metabolic disorders, hypothermia or hyperthermia,
28 neglect or homicide, poisoning, and accidental suffocation.

29 4. All employees of licensed child care facilities who care for
30 infants less than one year of age or any volunteer who may be assisting
31 at the facility shall successfully complete department-approved training
32 on the most recent safe sleep recommendations of the American
33 Academy of Pediatrics every three years.

34 5. The department shall promulgate rules to implement the
35 provisions of this section. Such rules shall include, but not be limited
36 to:

37 (1) Amending any current rules which are not in compliance with
38 the most recent safe sleep recommendations of the American Academy
39 of Pediatrics, including but not limited to 19 CSR 30.62-092(1)C which
40 permits the use of bumper pads in cribs or playpens;

41 (2) Keeping soft or loose bedding away from sleeping infants and
42 out of safe sleep environments including, but not limited to, bumper
43 pads, pillows, quilts, comforters, sleep positioning devices, sheepskins,
44 blankets, flat sheets, cloth diapers, bibs, and other similar items; and

45 (3) Prohibiting blankets or other soft or loose bedding from
46 being hung on the sides of cribs.

47 6. The department may adopt emergency rules to implement the
48 requirements of this section. Any rule or portion of a rule, as that term
49 is defined in section 536.010, that is created under the authority
50 delegated in this section shall become effective only if it complies with
51 and is subject to all of the provisions of chapter 536 and, if applicable,
52 section 536.028. This section and chapter 536 are nonseverable, and if
53 any of the powers vested with the general assembly pursuant to chapter
54 536 to review, to delay the effective date, or to disapprove and annul a
55 rule are subsequently held unconstitutional, then the grant of
56 rulemaking authority and any rule proposed or adopted after the
57 effective date of this section shall be invalid and void.

210.861. 1. When the tax prescribed by section 210.860 or section 67.1775
2 is established, the governing body of the city or county or city not within a county
3 shall appoint a board of directors consisting of nine members, who shall be
4 residents of the city or county or city not within a county. All board members
5 shall be appointed to serve for a term of three years, except that of the first board
6 appointed, three members shall be appointed for one-year terms, three members
7 for two-year terms and three members for three-year terms. Board members may
8 be reappointed. In a city not within a county, or any county of the first
9 classification with a charter form of government with a population not less than
10 nine hundred thousand inhabitants, or any county of the first classification with
11 a charter form of government with a population not less than two hundred
12 thousand inhabitants and not more than six hundred thousand inhabitants, or
13 any noncharter county of the first classification with a population not less than
14 one hundred seventy thousand and not more than two hundred thousand
15 inhabitants, or any noncharter county of the first classification with a population
16 not less than eighty thousand and not more than eighty-three thousand
17 inhabitants, or any third classification county with a population not less than
18 twenty-eight thousand and not more than thirty thousand inhabitants, or any
19 county of the third classification with a population not less than nineteen
20 thousand five hundred and not more than twenty thousand inhabitants the
21 members of the community mental health board of trustees appointed pursuant
22 to the provisions of sections 205.975 to 205.990 shall be the board members for
23 the community children's services fund. The directors shall not receive
24 compensation for their services, but may be reimbursed for their actual and
25 necessary expenses.

26 2. The board shall elect a chairman, vice chairman, treasurer, and such
27 other officers as it deems necessary for its membership. Before taking office, the
28 treasurer shall furnish a surety bond **or comparable insurance coverage for**
29 **theft, misappropriation, mismanagement, or other acts**, in an amount to
30 be determined and in a form to be approved by the board, for the faithful
31 performance of his or her duties and faithful accounting of all moneys that may
32 come into his or her hands. The treasurer shall enter into the surety bond **or**
33 **comparable insurance coverage** with a surety company **or insurer**
34 authorized to do business in Missouri, and the cost of such bond **or comparable**
35 **insurance coverage** shall be paid by the board of directors. The board shall
36 administer and expend all funds generated pursuant to section 210.860 or section

37 67.1775 in a manner consistent with this section. **The board shall not be**
38 **mandated to expend funds by an act of state legislation without a**
39 **majority vote of the county or city not within a county, excluding any**
40 **county with a charter form of government and with more than nine**
41 **hundred fifty thousand inhabitants.**

42 3. The board may contract with public or not-for-profit agencies licensed
43 or certified where appropriate to provide qualified services and may place
44 conditions on the use of such funds. The board shall reserve the right to audit
45 the expenditure of any and all funds. The board and any agency with which the
46 board contracts may establish eligibility standards for the use of such funds and
47 the receipt of services. No member of the board shall serve on the governing
48 body, have any financial interest in, or be employed by any agency which is a
49 recipient of funds generated pursuant to section 210.860 or section 67.1775.

50 4. Revenues collected and deposited in the community children's services
51 fund may be expended for the purchase of the following services:

52 (1) Up to thirty days of temporary shelter for abused, neglected, runaway,
53 homeless or emotionally disturbed youth; respite care services; and services to
54 unwed mothers;

55 (2) Outpatient chemical dependency and psychiatric treatment programs;
56 counseling and related services as a part of transitional living programs; home-
57 based and community-based family intervention programs; unmarried parent
58 services; crisis intervention services, inclusive of telephone hotlines; and
59 prevention programs which promote healthy lifestyles among children and youth
60 and strengthen families;

61 (3) Individual, group, or family professional counseling and therapy
62 services; psychological evaluations; and mental health screenings.

63 5. **Any county, excluding any county with a charter form of**
64 **government and with more than nine hundred fifty thousand**
65 **inhabitants, or city not within a county in which voters have approved**
66 **the levy of a tax under section 67.1775 or section 210.860 shall not add**
67 **services in addition to those which are set forth in subsection 4 of this**
68 **section at the time such levy is approved by the voters, unless such**
69 **services authorized by statute after the voters have approved the levy**
70 **are approved by the voters in the same manner as the original levy was**
71 **approved. A proposal to add services shall be approved as set forth in**
72 **section 67.1775 or section 210.860.**

73 **6.** Revenues collected and deposited in the community children's services
74 fund may not be expended for inpatient medical, psychiatric, and chemical
75 dependency services, or for transportation services.

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

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

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

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

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

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

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

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

24 (e) "Sexual assault", causing or attempting to cause another to engage
25 involuntarily in any sexual act by force, threat of force, [or] duress, **or without**
26 **that person's consent**;

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

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

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

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

34 commissioner;

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

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

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

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

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

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

52 (11) "Petitioner", a family or household member who has been a victim of
53 domestic violence, or any person who has been the victim of stalking **or sexual**
54 **assault**, or a person filing on behalf of a child pursuant to section 455.503 who
55 has filed a verified petition pursuant to the provisions of section 455.020 or
56 section 455.505;

57 (12) "Respondent", the family or household member alleged to have
58 committed an act of domestic violence, or person alleged to have committed an act
59 of stalking **or sexual assault**, against whom a verified petition has been filed
60 or a person served on behalf of a child pursuant to section 455.503;

61 (13) **"Sexual assault", as defined under subdivision (1) of this**
62 **section;**

63 (14) "Stalking" is when any person purposely [and repeatedly] engages
64 in an unwanted course of conduct that causes alarm to another person, **or a**
65 **person who resides together in the same household with the person**
66 **seeking the order of protection** when it is reasonable in that person's
67 situation to have been alarmed by the conduct. As used in this subdivision:

68 (a) "Alarm" means to cause fear of danger of physical harm; **and**

69 (b) "Course of conduct" means a pattern of conduct composed of

70 [repeated] **two or more** acts over a period of time, however short, that serves
71 no legitimate purpose. Such conduct may include, but is not limited to, following
72 the other person or unwanted communication or unwanted contact[]; and

73 (c) "Repeated" means two or more incidents evidencing a continuity of
74 purpose].

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

6 2. A person's right to relief under sections 455.010 to 455.085 shall not be
7 affected by the person leaving the residence or household to avoid domestic
8 violence.

9 3. Any protection order issued pursuant to sections 455.010 to 455.085
10 shall be effective throughout the state in all cities and counties.

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 committing or threatening to commit domestic
4 violence, stalking, **sexual assault**, molesting or disturbing the peace of
5 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 domestic violence have occurred, have
8 been attempted or have been or are threatened within the state of Missouri. For
9 purposes of this section, if the petitioner has been the subject of 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.

455.040. 1. Not later than fifteen days after the filing of a petition that
2 meets the requirements of section 455.020, a hearing shall be held unless the
3 court deems, for good cause shown, that a continuance should be granted. At the
4 hearing, if the petitioner has proved the allegation of domestic violence [or],
5 stalking, **or sexual assault** by a preponderance of the evidence, and the
6 respondent cannot show that his or her actions alleged to constitute abuse were
7 otherwise justified under the law, the court shall issue a full order of protection
8 for a period of time the court deems appropriate, except that the protective order
9 shall be valid for at least one hundred eighty days and not more than one
10 year. Upon motion by the petitioner, and after a hearing by the court, the full

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

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

39 3. A copy of any order of protection granted pursuant to sections 455.010
40 to 455.085 shall be issued to the petitioner and to the local law enforcement
41 agency in the jurisdiction where the petitioner resides. The clerk shall also issue
42 a copy of any order of protection to the local law enforcement agency responsible
43 for maintaining the Missouri uniform law enforcement system or any other
44 comparable law enforcement system the same day the order is granted. The law
45 enforcement agency responsible for maintaining MULES shall, for purposes of
46 verification, within twenty-four hours from the time the order is granted, enter

47 information contained in the order including but not limited to any orders
48 regarding child custody or visitation and all specifics as to times and dates of
49 custody or visitation that are provided in the order. A notice of expiration or of
50 termination of any order of protection or any change in child custody or visitation
51 within that order shall be issued to the local law enforcement agency and to the
52 law enforcement agency responsible for maintaining MULES or any other
53 comparable law enforcement system. The law enforcement agency responsible for
54 maintaining the applicable law enforcement system shall enter such information
55 in the system within twenty-four hours of receipt of information evidencing such
56 expiration or termination. The information contained in an order of protection
57 may be entered in the Missouri uniform law enforcement system or comparable
58 law enforcement system using a direct automated data transfer from the court
59 automated system to the law enforcement system.

60 4. The court shall cause a copy of any objection filed by the respondent
61 and notice of the date set for the hearing on such objection to an automatic
62 renewal of a full order of protection for a period of one year to be personally
63 served upon the petitioner by personal process server as provided by law or by a
64 sheriff or police officer at least three days prior to such hearing. Such service of
65 process shall be served at the earliest time and shall take priority over service in
66 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 domestic violence [or],
3 stalking, **or sexual assault** and may include:

4 (1) Restraining the respondent from committing or threatening to commit
5 domestic violence, molesting, stalking, **sexual assault**, or disturbing the peace
6 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, **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
8 the 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.

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

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

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

19 3. Law enforcement agencies may establish domestic crisis teams or, if the

20 agency has fewer than five officers whose responsibility it is to respond to calls
21 of this nature, individual officers trained in methods of dealing with domestic
22 violence. Such teams or individuals may be supplemented by social workers,
23 ministers or other persons trained in counseling or crisis intervention. When an
24 alleged incident of domestic violence is reported, the agency may dispatch a crisis
25 team or specially trained officer, if available, to the scene of the incident.

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

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

24 3. When an officer makes an arrest, the officer is not required to arrest
25 two parties involved in an assault when both parties claim to have been
26 assaulted. The arresting officer shall attempt to identify and shall arrest the
27 party the officer believes is the primary physical aggressor. The term "primary
28 physical aggressor" is defined as the most significant, rather than the first,
29 aggressor. The law enforcement officer shall consider any or all of the following
30 in determining the primary physical aggressor:

31 (1) The intent of the law to protect victims from continuing domestic
32 violence;

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

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

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

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

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

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

53 7. A violation of the terms and conditions, with regard to domestic
54 violence, stalking, **sexual assault**, child custody, communication initiated by the
55 respondent or entrance upon the premises of the petitioner's dwelling unit or
56 place of employment or school, or being within a certain distance of the petitioner
57 or a child of the petitioner, of an ex parte order of protection of which the
58 respondent has notice, shall be a class A misdemeanor unless the respondent has
59 previously pleaded guilty to or has been found guilty in any division of the circuit

60 court of violating an ex parte order of protection or a full order of protection
61 within five years of the date of the subsequent violation, in which case the
62 subsequent violation shall be a class E felony. Evidence of prior pleas of guilty
63 or findings of guilt shall be heard by the court out of the presence of the jury
64 prior to submission of the case to the jury. If the court finds the existence of such
65 prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall
66 decide the extent or duration of sentence or other disposition and shall not
67 instruct the jury as to the range of punishment or allow the jury to assess and
68 declare the punishment as a part of its verdict.

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

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

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

455.085. 1. When a law enforcement officer has probable cause to believe
2 a party has committed a violation of law amounting to domestic violence, as
3 defined in section 455.010, against a family or household member, the officer may

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

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

24 3. When an officer makes an arrest, the officer is not required to arrest
25 two parties involved in an assault when both parties claim to have been
26 assaulted. The arresting officer shall attempt to identify and shall arrest the
27 party the officer believes is the primary physical aggressor. The term "primary
28 physical aggressor" is defined as the most significant, rather than the first,
29 aggressor. The law enforcement officer shall consider any or all of the following
30 in determining the primary physical aggressor:

31 (1) The intent of the law to protect victims from continuing domestic
32 violence;

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

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

36 No law enforcement officer investigating an incident of domestic violence shall
37 threaten the arrest of all parties for the purpose of discouraging requests or law
38 enforcement intervention by any party. Where complaints are received from two
39 or more opposing parties, the officer shall evaluate each complaint separately to

40 determine whether the officer should seek a warrant for an arrest.

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

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

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

53 7. A violation of the terms and conditions, with regard to domestic
54 violence, stalking, **sexual assault**, child custody, communication initiated by the
55 respondent or entrance upon the premises of the petitioner's dwelling unit or
56 place of employment or school, or being within a certain distance of the petitioner
57 or a child of the petitioner, of an ex parte order of protection of which the
58 respondent has notice, shall be a class A misdemeanor unless the respondent has
59 previously pleaded guilty to or has been found guilty in any division of the circuit
60 court of violating an ex parte order of protection or a full order of protection
61 within five years of the date of the subsequent violation, in which case the
62 subsequent violation shall be a class D felony. Evidence of prior pleas of guilty
63 or findings of guilt shall be heard by the court out of the presence of the jury
64 prior to submission of the case to the jury. If the court finds the existence of such
65 prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall
66 decide the extent or duration of sentence or other disposition and shall not
67 instruct the jury as to the range of punishment or allow the jury to assess and
68 declare the punishment as a part of its verdict.

69 8. A violation of the terms and conditions, with regard to domestic
70 violence, stalking, **sexual assault**, child custody, communication initiated by the
71 respondent or entrance upon the premises of the petitioner's dwelling unit or
72 place of employment or school, or being within a certain distance of the petitioner
73 or a child of the petitioner, of a full order of protection shall be a class A
74 misdemeanor, unless the respondent has previously pleaded guilty to or has been
75 found guilty in any division of the circuit court of violating an ex parte order of

76 protection or a full order of protection within five years of the date of the
77 subsequent violation, in which case the subsequent violation shall be a class D
78 felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the
79 court out of the presence of the jury prior to submission of the case to the jury.
80 If the court finds the existence of such prior plea of guilty or finding of guilt
81 beyond a reasonable doubt, the court shall decide the extent or duration of the
82 sentence or other disposition and shall not instruct the jury as to the range of
83 punishment or allow the jury to assess and declare the punishment as a part of
84 its verdict. For the purposes of this subsection, in addition to the notice provided
85 by actual service of the order, a party is deemed to have notice of an order of
86 protection if the law enforcement officer responding to a call of a reported
87 incident of domestic violence, stalking, **sexual assault**, or violation of an order
88 of protection presented a copy of the order of protection to the respondent.

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

91 10. Nothing in this section shall be interpreted as creating a private cause
92 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 domestic
3 violence [or], stalking, or **sexual assault** occurred, or where the respondent may
4 be served.

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

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

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

9 (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 household member or [person] **sexual**
3 **assault or** stalking [the child] **by any person** may be sought under sections
4 455.500 to 455.538 by the filing of a verified petition alleging such domestic
5 violence [or], stalking, or **sexual assault** by the respondent.

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

9 3. Any protection order issued pursuant to sections 455.500 to 455.538
10 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 domestic violence [or],
6 stalking, **or sexual assault** to a child shall constitute good cause for purposes
7 of this section. An ex parte order of protection entered by the court shall be in
8 effect until the time of the hearing. The court shall deny the ex parte order and
9 dismiss the 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 the allegations in the petition would give rise to jurisdiction under
21 section 211.031 because the respondent is less than seventeen years of age, the
22 court may issue an ex parte order and shall transfer the case to juvenile court for
23 a hearing on a full order of protection. Service of process shall be made pursuant
24 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 [or],
3 stalking, **or sexual assault** and may include such terms as the court reasonably
4 deems necessary to ensure the victim's safety, including but not limited to:

5 (1) Restraining the respondent from committing or threatening to commit
6 domestic violence, stalking, **sexual assault**, molesting, or disturbing the peace
7 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], stalking,
3 **and sexual assault** may include such terms as the court reasonably deems
4 necessary 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.

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 in violation of that order, the officer shall have the authority
4 to arrest the respondent whether or not the violation occurred in the presence of
5 the arresting officer.

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

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

14 4. (1) Violation of the terms and conditions of an ex parte or full order of
15 protection with regard to domestic violence, stalking, **sexual assault**, child
16 custody, communication initiated by the respondent, or entrance upon the
17 premises of the victim's dwelling unit or place of employment or school, or being
18 within a certain distance of the petitioner or a child of the petitioner, of which the
19 respondent has notice, shall be a class A misdemeanor, unless the respondent has
20 previously pleaded guilty to or has been found guilty in any division of the circuit
21 court of violating an ex parte order of protection or a full order of protection
22 within five years of the date of the subsequent violation, in which case the
23 subsequent violation shall be a class E felony. Evidence of a prior plea of guilty
24 or finding of guilt shall be heard by the court out of the presence of the jury prior
25 to submission of the case to the jury. If the court finds the existence of a prior
26 plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide
27 the extent or duration of sentence or other disposition and shall not instruct the
28 jury 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 domestic violence [or], stalking, **sexual assault**, or violation
34 of an order of protection for a child presents a copy of the order of protection to
35 the respondent.

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

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 in violation of that order, the officer shall have the authority
4 to arrest the respondent whether or not the violation occurred in the presence of
5 the arresting officer.

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

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

14 4. (1) Violation of the terms and conditions of an ex parte or full order of
15 protection with regard to domestic violence, stalking, **sexual assault**, child
16 custody, communication initiated by the respondent, or entrance upon the
17 premises of the victim's dwelling unit or place of employment or school, or being
18 within a certain distance of the petitioner or a child of the petitioner, of which the
19 respondent has notice, shall be a class A misdemeanor, unless the respondent has
20 previously pleaded guilty to or has been found guilty in any division of the circuit
21 court of violating an ex parte order of protection or a full order of protection
22 within five years of the date of the subsequent violation, in which case the
23 subsequent violation shall be a class D felony. Evidence of a prior plea of guilty
24 or finding of guilt shall be heard by the court out of the presence of the jury prior
25 to submission of the case to the jury. If the court finds the existence of a prior
26 plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide
27 the extent or duration of sentence or other disposition and shall not instruct the

28 jury 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 domestic violence [or], stalking, **sexual assault**, or violation
34 of an order of protection for a child presents a copy of the order of protection to
35 the respondent.

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

✓

Bill

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