

FIRST REGULAR SESSION

# HOUSE BILL NO. 59

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHUMAKE.

0334H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 455.538, RSMo, and to enact in lieu thereof one new section relating to protective orders.

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

Section A. Section 455.538, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 455.538, to read as follows:

455.538. 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act in violation of that order, the officer shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

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

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

4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to domestic violence, stalking, sexual assault, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 of the date of the subsequent violation, in which case the subsequent violation shall be a class  
19 E felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of  
20 the presence of the jury prior to submission of the case to the jury. If the court finds the  
21 existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall  
22 decide the extent or duration of sentence or other disposition and shall not instruct the jury as to  
23 the range of punishment or allow the jury to assess and declare the punishment as a part of its  
24 verdict.

25 (2) For purposes of this subsection, in addition to the notice provided by actual service  
26 of the order, a party is deemed to have notice of an order of protection for a child if the law  
27 enforcement officer responding to a call of a reported incident of domestic violence, stalking,  
28 sexual assault, or violation of an order of protection for a child presents a copy of the order of  
29 protection to the respondent.

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

33 **6. If a respondent communicates through any medium with a petitioner who has**  
34 **been granted an ex parte or full order of protection and such communication is the result**  
35 **of the petitioner initiating contact with the respondent, the respondent shall not be in**  
36 **violation of such order of protection.**

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