

SECOND REGULAR SESSION

HOUSE BILL NO. 2626

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOLON.

5619H.011

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, to read as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

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

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

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

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

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

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.

- 14 (d) "Harassment", engaging in a purposeful or knowing course of conduct involving
15 more than one incident that alarms or causes distress to an adult or child and serves no legitimate
16 purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer
17 substantial emotional distress and must actually cause substantial emotional distress to the
18 petitioner or child. Such conduct might include, but is not limited to:
- 19 a. Following another about in a public place or places;
 - 20 b. Peering in the window or lingering outside the residence of another; but does not
21 include constitutionally protected activity;
 - 22 (e) "Sexual assault", causing or attempting to cause another to engage involuntarily in
23 any sexual act by force, threat of force, duress, or without that person's consent;
 - 24 (f) "Unlawful imprisonment", holding, confining, detaining or abducting another person
25 against that person's will;
 - 26 (2) "Adult", any person seventeen years of age or older or otherwise emancipated;
 - 27 (3) "Child", any person under seventeen years of age unless otherwise emancipated;
 - 28 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
 - 29 (5) "Domestic violence", abuse or stalking committed by a family or household member,
30 as such terms are defined in this section;
 - 31 (6) "Ex parte order of protection", an order of protection issued by the court before the
32 respondent has received notice of the petition or an opportunity to be heard on it;
 - 33 (7) "Family" or "household member", spouses, former spouses, any person related by
34 blood or marriage, persons who are presently residing together or have resided together in the
35 past, any person who is or has been in a continuing social relationship of a romantic or intimate
36 nature with the victim, and anyone who has a child in common regardless of whether they have
37 been married or have resided together at any time;
 - 38 (8) "Full order of protection", an order of protection issued after a hearing on the record
39 where the respondent has received notice of the proceedings and has had an opportunity to be
40 heard;
 - 41 (9) "Order of protection", either an ex parte order of protection or a full order of
42 protection;
 - 43 (10) "Pending", exists or for which a hearing date has been set;
 - 44 (11) **"Pet", a living creature maintained by a household member for companionship
45 and not for commercial purposes;**
 - 46 (12) "Petitioner", a family or household member who has been a victim of domestic
47 violence, or any person who has been the victim of stalking or sexual assault, or a person filing
48 on behalf of a child pursuant to section 455.503 who has filed a verified petition pursuant to the
49 provisions of section 455.020 or section 455.505;

50 ~~[(12)]~~ **(13)** "Respondent", the family or household member alleged to have committed
51 an act of domestic violence, or person alleged to have committed an act of stalking or sexual
52 assault, against whom a verified petition has been filed or a person served on behalf of a child
53 pursuant to section 455.503;

54 ~~[(13)]~~ **(14)** "Sexual assault", as defined under subdivision (1) of this section;

55 ~~[(14)]~~ **(15)** "Stalking" is when any person purposely engages in an unwanted course of
56 conduct that causes alarm to another person, or a person who resides together in the same
57 household with the person seeking the order of protection when it is reasonable in that person's
58 situation to have been alarmed by the conduct. As used in this subdivision:

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

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

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

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

 2. Failure to serve an ex parte order of protection on the respondent shall not affect the
10 validity or enforceability of such order. If the respondent is less than seventeen years of age,
11 unless otherwise emancipated, service of process shall be made upon a custodial parent or

12 guardian of the respondent, or upon a guardian ad litem appointed by the court, requiring that the
13 person appear and bring the respondent before the court at the time and place stated.

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

455.045. Any ex parte order of protection granted pursuant to sections 455.010 to
2 455.085 shall be to protect the petitioner from domestic violence, stalking, or sexual assault and
3 may include:

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

6 (2) Restraining the respondent from entering the premises of the dwelling unit of
7 petitioner when the dwelling unit is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (3) Temporarily enjoining the respondent from communicating with the petitioner in any
18 manner or through any medium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

78 9. (1) The court may, in order to ensure that a petitioner can maintain an existing
79 wireless telephone number or numbers, issue an order, after notice and an opportunity to be
80 heard, directing a wireless service provider to transfer the billing responsibility for and rights to
81 the wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless
82 service account holder.

83 (2) (a) The order transferring billing responsibility for and rights to the wireless
84 telephone number or numbers to the petitioner shall list the name and billing telephone number
85 of the accountholder, the name and contact information of the person to whom the telephone
86 number or numbers will be transferred, and each telephone number to be transferred to that
87 person. The court shall ensure that the contact information of the petitioner is not provided to
88 the accountholder in proceedings held under this chapter.

89 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either
90 electronically or by certified mail, to the wireless service provider's registered agent listed with
91 the secretary of state, or electronically to the email address provided by the wireless service
92 provider. Such transmittal shall constitute adequate notice for the wireless service provider
93 acting under this section and section 455.523.

94 (c) If the wireless service provider cannot operationally or technically effectuate the
95 order due to certain circumstances, the wireless service provider shall notify the petitioner within
96 three business days. Such circumstances shall include, but not be limited to, the following:

97 a. The accountholder has already terminated the account;

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

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

101 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone
102 number or numbers to the petitioner under this subsection by a wireless service provider, the
103 petitioner shall assume all financial responsibility for the transferred wireless telephone number
104 or numbers, monthly service costs, and costs for any mobile device associated with the wireless
105 telephone number or numbers.

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

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

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

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

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

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

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

8 An immediate and present danger of domestic violence, **including danger to the child's pet**,
9 stalking, or sexual assault to a child shall constitute good cause for purposes of this section. An
10 ex parte order of protection entered by the court shall be in effect until the time of the hearing.
11 The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized
12 to seek relief pursuant to section 455.505.

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

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

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

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

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

7 (2) Restraining the respondent from entering the family home of the victim except as
8 specifically authorized by the court;

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) Award visitation;

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

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

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

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

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

28 (8) Order the respondent to pay a reasonable fee for housing and other services that have
29 been provided or that are being provided to the victim by a shelter for victims of domestic
30 violence;

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

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

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