

SECOND REGULAR SESSION

HOUSE BILL NO. 1728

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DONNELLY (Sponsor),
VOGT AND STEVENSON (Co-sponsors).

Read 1st time April 8, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4814L.03I

AN ACT

To repeal sections 455.010, 455.501, and 559.026, RSMo, and to enact in lieu thereof four new sections relating to domestic violence.

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

Section A. Sections 455.010, 455.501, and 559.026, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 455.010, 455.090, 455.501, and
3 559.026, to read as follows:

455.010. As used in sections 455.010 to 455.085, 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 following acts,
4 attempts or threats against a person who may be protected pursuant to sections 455.010 to
5 455.085:

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

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

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

13 (d) "Harassment", engaging in a purposeful or knowing course of conduct involving
14 more than one incident that alarms or causes distress to another adult and serves no legitimate
15 purpose. The course of conduct must be such as would cause a reasonable adult to suffer

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

16 substantial emotional distress and must actually cause substantial emotional distress to the
17 petitioner. Such conduct might include, but is not limited to:

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

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

21 (e) "Sexual assault", causing or attempting to cause another to engage involuntarily in
22 any sexual act by force, threat of force, or duress;

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

25 (2) "Adult", any person eighteen years of age or older or otherwise emancipated;

26 (3) "Court", the circuit or associate circuit judge or a family court commissioner;

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

29 (5) "Family" or "household member", spouses, former spouses, adults related by blood
30 or marriage, adults who are presently residing together or have resided together in the past, an
31 adult who is or has been in a continuing social relationship of a romantic or intimate nature with
32 the victim, and adults who have a child in common regardless of whether they have been married
33 or have resided together at any time;

34 (6) "Full order of protection", an order of protection issued after a hearing on the record
35 where the respondent has received notice of the proceedings and has had an opportunity to be
36 heard;

37 (7) "Order of protection", either an ex parte order of protection or a full order of
38 protection;

39 (8) "Petitioner", a family or household member or an adult who has been the victim of
40 stalking, who has filed a verified petition pursuant to the provisions of section 455.020;

41 (9) "Respondent", the family or household member or adult alleged to have committed
42 an act of stalking, against whom a verified petition has been filed;

43 (10) "Stalking" is when an adult purposely and repeatedly [harasses or follows with the
44 intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a
45 course of conduct directed at a specific adult that serves no legitimate purpose, that would cause
46 a reasonable adult to suffer substantial emotional distress.] **engages in an unwanted course of**
47 **conduct that causes alarm to another person when it is reasonable in that person's situation**
48 **to have been alarmed by the conduct.** As used in this subdivision[.];

49 (a) "Course of conduct" means a pattern of conduct composed of [a series of] **repeated**
50 acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally
51 protected activity is not included within the meaning of "course of conduct"] **that serves no**

52 **legitimate purpose. Such conduct may include, but is not limited to, following the other**
53 **person or unwanted communication or unwanted contact;**

54 (b) **"Repeated" means two or more incidents evidencing a continuity of purpose;**
55 **and**

56 (c) **"Alarm" means to cause fear of danger of physical harm.**

455.090. 1. The court shall retain jurisdiction over the full order of protection
2 **issued under this chapter for its entire duration. The court may schedule compliance**
3 **review hearings to monitor the respondent's compliance with the order.**

4 **2. The terms of the order of protection issued under this chapter are enforceable**
5 **by all remedies available at law for the enforcement of a judgment, and the court may**
6 **punish a respondent who willfully violates the order of protection to the same extent as**
7 **provided by law for contempt of the court in any other suit or proceeding cognizable by**
8 **the court.**

455.501. As used in sections 455.500 to 455.538, the following terms mean:

2 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
3 other than by accidental means by an adult household member, or stalking of a child. Discipline
4 including spanking, administered in a reasonable manner shall not be construed to be abuse;

5 (2) "Adult household member", any person eighteen years of age or older or an
6 emancipated child who resides with the child in the same dwelling unit;

7 (3) "Child", any person under eighteen years of age;

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

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

11 (6) "Full order of protection", an order of protection issued after a hearing on the record
12 where the respondent has received notice of the proceedings and has had an opportunity to be
13 heard;

14 (7) "Order of protection", either an ex parte order of protection or a full order of
15 protection;

16 (8) "Petitioner", a person authorized to file a verified petition under the provisions of
17 sections 455.503 and 455.505;

18 (9) "Respondent", the adult household member, emancipated child or person stalking the
19 child against whom a verified petition has been filed;

20 (10) "Stalking", **when an adult** purposely and repeatedly [harassing or following with
21 the intent of harassing a child. As used in this subdivision, "harassing" means engaging in a
22 course of conduct directed at a specific child that serves no legitimate purpose, that would cause
23 a reasonable adult to believe the child would suffer substantial emotional distress.] **engages in**

24 **an unwanted course of conduct with regard to a child that causes another adult to believe**
25 **that a child would suffer alarm by the conduct.** As used in this subdivision[,]:

26 (a) "Course of conduct" means a pattern of conduct composed of [a series of] **repeated**
27 acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally
28 protected activity is not included within the meaning of "course of conduct"] **that serves no**
29 **legitimate purpose. Such conduct may include, but is not limited to, following the other**
30 **person or unwanted communication or contact;**

31 (b) "**Repeated**" means **two or more incidents evidencing a continuity of purpose;**
32 **and**

33 (c) "**Alarm**" means **to cause fear of danger of physical harm;**

34 (11) "Victim", a child who is alleged to have been abused by an adult household
35 member.

559.026. Except in infraction cases, when probation is granted, the court, in addition to
2 conditions imposed pursuant to section 559.021, may require as a condition of probation that the
3 offender submit to a period of detention up to forty-eight hours after the determination by a
4 probation or parole officer that the offender violated a condition of continued probation or parole
5 in an appropriate institution at whatever time or intervals within the period of probation,
6 consecutive or nonconsecutive, the court shall designate, or the board of probation and parole
7 shall direct. Any person placed on probation in a county of the first class or second class or in
8 any city with a population of five hundred thousand or more and detained as herein provided
9 shall be subject to all provisions of section 221.170, RSMo, even though he was not convicted
10 and sentenced to a jail or workhouse.

11 (1) In misdemeanor cases, the period of detention under this section shall not exceed the
12 shorter of [fifteen] **thirty** days or the maximum term of imprisonment authorized for the
13 misdemeanor by chapter 558, RSMo.

14 (2) In felony cases, the period of detention under this section shall not exceed one
15 hundred twenty days.

16 (3) If probation is revoked and a term of imprisonment is served by reason thereof, the
17 time spent in a jail, half-way house, honor center, workhouse or other institution as a detention
18 condition of probation shall be credited against the prison or jail term served for the offense in
19 connection with which the detention condition was imposed.