

SECOND REGULAR SESSION

HOUSE BILL NO. 1274

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PARKER (Sponsor), HUBBARD, SCHNEIDER,
CUNNINGHAM (86) AND REINHART (Co-sponsors).

Read 1st time January 27, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3803L.011

AN ACT

To repeal sections 455.020, 455.032, 455.050, and 455.080, RSMo, and to enact in lieu thereof seven new sections relating to domestic violence, with penalty provisions.

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

Section A. Sections 455.020, 455.032, 455.050, and 455.080, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 455.020, 455.032, 455.050,
3 455.080, 571.300, 571.305, and 571.310, to read as follows:

455.020. 1. Any adult who has been subject to abuse by a present or former adult family
2 or household member, or who has been the victim of stalking, may seek relief under sections
3 455.010 to 455.085 **for himself or herself, as well as for any children in his or her custody,**
4 by filing a verified petition alleging such abuse or stalking by the respondent.

5 2. An adult's right to relief under sections 455.010 to 455.085 shall not be affected by
6 his **or her** leaving the residence or household to avoid abuse.

7 3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective
8 throughout the state in all cities and counties **and shall apply to all children in the custody of**
9 **the adult seeking the protection order.**

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 abusing, threatening to abuse, molesting or disturbing the peace of petitioner **and all children**
4 **in the custody of the petitioner,** pursuant to sections 455.010 to 455.085, if the petitioner is
5 present, whether permanently or on a temporary basis within the state of Missouri and if the
6 respondent's actions constituting abuse have occurred, have been attempted or have been or are

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.

7 threatened within the state of Missouri. For purposes of this section, if the petitioner [has] **or**
8 **any children in the custody of the petitioner have** been the subject of abuse within or outside
9 of the state of Missouri, such evidence shall be admissible to demonstrate the need for protection
10 in Missouri.

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 **and any children in the custody of the petitioner**
3 from abuse or stalking and may include:

4 (1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting,
5 stalking or disturbing the peace of the petitioner **or any children in the custody of the**
6 **petitioner;**

7 (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit
8 of the 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, rented or occupied by petitioner and a person other than
12 respondent; provided, however, no spouse shall be denied relief pursuant to this section by
13 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 respondent; provided that
15 the respondent has no property interest in the dwelling unit; or

16 (3) Temporarily enjoining the respondent from communicating with the petitioner **or**
17 **any children in the custody of the petitioner** in any manner or through any medium.

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

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

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

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

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

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

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

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

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

69 noncustodial parent will damage the minor child.

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

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

 455.080. 1. Law enforcement agencies may establish procedures to ensure that
2 dispatchers and officers at the scene of an alleged incident of abuse or violation of an order of
3 protection can be informed of any recorded prior incident of abuse involving the abused party
4 and can verify the effective dates and terms of any recorded order of protection.

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

11 (1) The caller indicates that violence is imminent or in progress; or

12 (2) A protection order is in effect; or

13 (3) The caller indicates that incidents of domestic violence have occurred previously
14 between the parties.

15 3. Law enforcement agencies may establish domestic crisis teams or, if the agency has
16 fewer than five officers whose responsibility it is to respond to calls of this nature, individual
17 officers trained in methods of dealing with family and household quarrels. Such teams or
18 individuals may be supplemented by social workers, ministers or other persons trained in
19 counseling or crisis intervention. When an alleged incident of family or household abuse is
20 reported, the agency may dispatch a crisis team or specially trained officer, if available, to the
21 scene of the incident.

22 4. The officer at the scene of an alleged incident of abuse shall inform the abused party
23 of available judicial remedies for relief from adult abuse and of available shelters for victims of
24 domestic violence.

25 5. Law enforcement officials at the scene shall provide or arrange transportation for the
26 abused party **and any children at the scene** to a medical facility for treatment of injuries or to
27 a place of shelter or safety.

571.300. 1. When responding to the scene of an alleged act of domestic violence, a

2 law enforcement officer may remove a firearm from the scene if:

3 (1) The law enforcement officer has probable cause to believe that an act of
4 domestic violence has occurred; and

5 (2) The law enforcement officer has observed the firearm on the scene during the
6 response.

7 2. If a firearm is removed from the scene under subsection 1 of this section, the law
8 enforcement officer shall:

9 (1) Provide to the owner of the firearm information on the process for retaking
10 possession of the firearm; and

11 (2) Provide for the safe storage of the firearm during the pendency of any
12 proceeding related to the alleged act of domestic violence.

13 3. At the conclusion of a proceeding on the alleged act of domestic violence, the
14 owner of the firearm may retake possession of the firearm unless ordered to surrender the
15 firearm under section 571.300.

571.305. A sheriff shall deny an application for or revoke a permit issued or
2 registration filed under section 571.090 if the sheriff finds that the applicant, or a person
3 who was issued a permit or has registered a firearm:

4 (1) Is subject to an existing order of protection prohibiting him or her from
5 possessing a firearm;

6 (2) Has been convicted of or pled guilty or nolo contendere to domestic assault; or

7 (3) Has been convicted of or pled guilty or nolo contendere to a violation of an
8 order of protection in which a firearm was used or possessed.

9
10 The provisions of this section shall apply to persons who obtained a permit and/or
11 registered a firearm under section 571.090 prior to the effective date of this section.

571.310. It shall be unlawful for any person to ship or transport in intrastate,
2 interstate, or foreign commerce, or possess in or affecting commerce, any firearm or
3 ammunition, or to receive any firearm or ammunition which has been shipped or
4 transported in intrastate, interstate, or foreign commerce if such person:

5 (1) Is subject to a court order that:

6 (a) Was issued after a hearing of which such person received actual notice, and at
7 which such person had an opportunity to participate;

8 (b) Restrains such person from harassing, stalking, or threatening an intimate
9 partner of such person or child of such intimate partner or person, or engaging in other
10 conduct that would place an intimate partner in reasonable fear of bodily injury to the
11 partner or child; and

- 12 **(c) a. Includes a finding that such person represents a credible threat to the**
13 **physical safety of such intimate partner or child; or**
- 14 **b. By its terms explicitly prohibits the use, attempted use, or threatened use of**
15 **physical force against such intimate partner or child that would reasonably be expected**
16 **to cause bodily injury; or**
- 17 **(2) Has been convicted in any court of a misdemeanor crime of domestic violence.**