

SECOND REGULAR SESSION

HOUSE BILL NO. 2340

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORCORAN.

Read 1st time March 4, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5414L.01I

AN ACT

To repeal sections 43.545, 455.200, 455.545, and 565.063, RSMo, and to enact in lieu thereof four 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Section A. Sections 43.545, 455.200, 455.545, and 565.063, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 43.545, 455.200, 455.545, and
3 565.063, to read as follows:

43.545. The state highway patrol shall include in its voluntary system of reporting for
2 compilation in the "Missouri Crime Index" all reported incidents of domestic violence, whether
3 or not an arrest is made. All incidents shall be reported on forms provided by the highway patrol
4 and in a manner prescribed by the patrol. For purposes of this section only, "domestic violence"
5 shall be defined as any dispute arising between spouses, former spouses, persons related by blood
6 or marriage, individuals who are presently residing together or have resided together in the past,
7 **a person who is or has been in a continuing social relationship of a romantic or intimate**
8 **nature with the victim**, and persons who have a child in common regardless of whether they
9 have been married or have resided together at any time.

455.200. As used in sections 455.200 to 455.230, unless the context clearly requires
2 otherwise, the following words and phrases mean:

3 (1) "Designated authority", the board, commission, agency, or other body designated
4 under the provisions of section 455.210 as the authority to administer the allocation and
5 distribution of funds to shelters;

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.

6 (2) "Domestic violence", [attempting to cause or causing bodily injury to a family or
7 household member, or placing a family or household member by threat of force in fear of
8 imminent physical harm] **includes but is not limited to the occurrence of any acts, attempts,**
9 **or threats against a person who may be protected under sections 455.010 to 455.085;**

10 (3) "Family or household member", a spouse, a former spouse, [person living with
11 another person whether or not as spouses, parent, or other adult person related by consanguinity
12 or affinity, who is residing or has resided with the person committing the domestic violence and
13 dependents of such persons] **adults who are presently residing together or have resided**
14 **together in the past, an adult who is or has been in a continuing social relationship of a**
15 **romantic or intimate nature with the victim, and adults who have a child in common**
16 **regardless of whether they have been married or have resided together at any time;**

17 (4) "Shelter for victims of domestic violence" or "shelter", a facility established for the
18 purpose of providing temporary residential service or facilities to family or household members
19 who are victims of domestic violence.

455.545. The highway patrol shall compile an annual report of homicides and suicides
2 related to domestic violence, **as defined in section 455.200**. Such report shall be presented by
3 February first of the subsequent year to the governor, speaker of the house of representatives, and
4 president pro tempore of the senate.

565.063. 1. As used in this section, the following terms mean:

2 (1) "Domestic assault offense":

3 (a) The commission of the crime of domestic assault in the first degree pursuant to
4 section 565.072 or domestic assault in the second degree pursuant to section 565.073; or

5 (b) The commission of the crime of assault in the first degree pursuant to the provisions
6 of section 565.050 or assault in the second degree pursuant to the provisions of section 565.060,
7 if the victim of the assault was a family or household member;

8 (2) "Family" or "household member", spouses, former spouses, adults related by blood
9 or marriage, adults who are presently residing together or have resided together in the past, **an**
10 **adult who is or has been in a continuing social relationship of a romantic or intimate**
11 **nature with the victim**, and adults who have a child in common regardless of whether they have
12 been married or have resided together at any time;

13 (3) "Persistent domestic violence offender", a person who has pleaded guilty to or has
14 been found guilty of two or more domestic assault offenses, where such two or more offenses
15 occurred within ten years of the occurrence of the domestic assault offense for which the person
16 is charged; and

17 (4) "Prior domestic violence offender", a person who has pleaded guilty to or has been
18 found guilty of one domestic assault offense, where such prior offense occurred within five years
19 of the occurrence of the domestic assault offense for which the person is charged.

20 2. No court shall suspend the imposition of sentence as to a prior or persistent domestic
21 violence offender pursuant to this section nor sentence such person to pay a fine in lieu of a term
22 of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person
23 be eligible for parole or probation until such person has served a minimum of six months'
24 imprisonment.

25 3. The court shall find the defendant to be a prior domestic violence offender or
26 persistent domestic violence offender, if:

27 (1) The indictment or information, original or amended, or the information in lieu of an
28 indictment pleads all essential facts warranting a finding that the defendant is a prior domestic
29 violence offender or persistent domestic violence offender; and

30 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
31 beyond a reasonable doubt the defendant is a prior domestic violence offender or persistent
32 domestic violence offender; and

33 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
34 by the court that the defendant is a prior domestic violence offender or persistent domestic
35 violence offender.

36 4. In a jury trial, such facts shall be pleaded, established and found prior to submission
37 to the jury outside of its hearing.

38 5. In a trial without a jury or upon a plea of guilty, the court may defer the proof in
39 findings of such facts to a later time, but prior to sentencing.

40 6. The defendant shall be accorded full rights of confrontation and cross-examination,
41 with the opportunity to present evidence, at such hearings.

42 7. The defendant may waive proof of the facts alleged.

43 8. Nothing in this section shall prevent the use of presentence investigations or
44 commitments.

45 9. At the sentencing hearing both the state and the defendant shall be permitted to present
46 additional information bearing on the issue of sentence.

47 10. The pleas or findings of guilty shall be prior to the date of commission of the present
48 offense.

49 11. The court shall not instruct the jury as to the range of punishment or allow the jury,
50 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of
51 prior domestic violence offenders or persistent domestic violence offenders.

52 12. Evidence of prior convictions shall be heard and determined by the trial court out of
53 the hearing of the jury prior to the submission of the case to the jury, and shall include but not
54 be limited to evidence of convictions received by a search of the records of the Missouri uniform
55 law enforcement system maintained by the Missouri state highway patrol. After hearing the
56 evidence, the court shall enter its findings thereon.

57 13. Evidence of similar criminal convictions of domestic violence pursuant to this
58 chapter, chapter 566, RSMo, or chapter 568, RSMo, within five years of the offense at issue,
59 shall be admissible for the purposes of showing a past history of domestic violence.

60 14. Any person who has pleaded guilty to or been found guilty of a violation of section
61 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the
62 court finds the offender is a prior domestic violence offender. The offender shall be sentenced
63 to the authorized term of imprisonment for a class A felony which term shall be served without
64 probation or parole if the court finds the offender is a persistent domestic violence offender or
65 the prior domestic violence offender inflicts serious physical injury on the victim.

66 15. Any person who has pleaded guilty to or been found guilty of a violation of section
67 565.073 shall be sentenced:

68 (a) To the authorized term of imprisonment for a class B felony if the court finds the
69 offender is a prior domestic violence offender; or

70 (b) To the authorized term of imprisonment for a class A felony if the court finds the
71 offender is a persistent domestic violence offender.

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