

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 468
95TH GENERAL ASSEMBLY

2161L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 455.010, 455.038, and 455.040, RSMo, and to enact in lieu thereof three new sections relating to ex parte orders of protection.

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

Section A. Sections 455.010, 455.038 and 455.040, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 455.010, 455.038, and 455.040, to read as follows:

455.010. As used in sections 455.010 to 455.085, 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 sections 455.010 to 455.085:

(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;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate 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 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.

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] **seventeen** years of age or older or otherwise
26 emancipated;

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

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

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

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

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

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

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

44 (10) "Stalking" is when an adult purposely and repeatedly engages in an unwanted course
45 of conduct that causes alarm to another person when it is reasonable in that person's situation to
46 have been alarmed by the conduct. As used in this subdivision:

47 (a) "Course of conduct" means a pattern of conduct composed of repeated acts over a
48 period of time, however short, that serves no legitimate purpose. Such conduct may include, but
49 is not limited to, following the other person or unwanted communication or unwanted contact;

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

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

455.038. Every circuit clerk shall be responsible for providing information to individuals
2 petitioning for ex parte orders of protection regarding notification of service of these orders of
3 protection. Such notification to the petitioner is required if the petitioner has registered a
4 telephone number with the victim notification system, established under subsection 3 of section
5 650.310, RSMo. The petitioner shall be informed of his or her option to receive notification of
6 service of an ex parte order of protection on the respondent by the circuit clerk and shall be
7 provided information on how to receive notification of service of ex parte orders of protection.
8 The local law enforcement agency or any other government agency responsible for serving ex
9 parte orders of protection **shall enter service information into the Missouri Uniform Law**
10 **Enforcement system or future secure electronic databases that are intended only for law**
11 **enforcement use within twenty-four hours after the ex parte order is served on the**
12 **respondent or** shall notify the circuit clerk when no more service attempts are planned by that
13 agency. The provisions of this section shall only apply to those circuit clerks able to access a
14 statewide victim notification system designed to provide notification of service of orders of
15 protection.

455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections
2 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that
3 a continuance should be granted. At the hearing, if the petitioner has proved the allegation of
4 abuse or stalking by a preponderance of the evidence, the court shall issue a full order of
5 protection for a period of time the court deems appropriate, except that the protective order shall
6 be valid for at least one hundred eighty days and not more than one year. Upon motion by the
7 petitioner, and after a hearing by the court, the full order of protection may be renewed for a
8 period of time the court deems appropriate, except that the protective order shall be valid for at
9 least one hundred eighty days and not more than one year from the expiration date of the
10 originally issued full order of protection. If for good cause a hearing cannot be held on the
11 motion to renew the full order of protection prior to the expiration date of the originally issued
12 full order of protection, an ex parte order of protection may be issued until a hearing is held on
13 the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order
14 of protection may be renewed for an additional period of time the court deems appropriate,
15 except that the protective order shall be valid for at least one hundred eighty days and not more
16 than one year. For purposes of this subsection, a finding by the court of a subsequent act of
17 abuse is not required for a renewal order of protection.

18 2. The court shall cause a copy of the petition and notice of the date set for the hearing
19 on such petition and any ex parte order of protection to be served upon the respondent as
20 provided by law or by any sheriff or police officer at least three days prior to such hearing. Such
21 notice shall be served at the earliest time, and service of such notice shall take priority over

22 service in other actions, except those of a similar emergency nature. The court shall cause a copy
23 of any full order of protection to be served upon or mailed by certified mail to the respondent at
24 the respondent's last known address. Failure to serve or mail a copy of the full order of
25 protection to the respondent shall not affect the validity or enforceability of a full order of
26 protection.

27 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085
28 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where
29 the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
30 enforcement agency responsible for maintaining the Missouri uniform law enforcement system
31 or any other comparable law enforcement system the same day the order is granted. The law
32 enforcement agency responsible for maintaining MULES shall enter information contained in
33 the order for purposes of verification within twenty-four hours from the time the order is granted.
34 A notice of expiration [or], of termination, **or of denial** of any order of protection shall be issued
35 to the local law enforcement agency and to the law enforcement agency responsible for
36 maintaining MULES or any other comparable law enforcement system. The law enforcement
37 agency responsible for maintaining the applicable law enforcement system shall enter such
38 information in the system **within twenty-four hours of receipt of information evidencing such**
39 **expiration, termination, or denial.** The information contained in an order of protection may
40 be entered in the Missouri uniform law enforcement system or comparable law enforcement
41 system using a direct automated data transfer from the court automated system to the law
42 enforcement system.

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