

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 341
98TH GENERAL ASSEMBLY
2015

1561H.04T

AN ACT

To repeal sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof twenty-one new sections relating to the protection of vulnerable persons, with penalty provisions.

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

Section A. Sections 210.003, 210.221, 210.861, 455.010, 455.020, 455.032,
2 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and
3 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh
4 general assembly, second regular session, section 455.085 as enacted by house bill
5 no. 215, ninety-seventh general assembly, first regular session, section 455.538 as
6 enacted by senate bill no. 491, ninety-seventh general assembly, second regular
7 session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general
8 assembly, first regular session, are repealed and twenty-one new sections enacted in
9 lieu thereof, to be known as sections 37.719, 160.975, 210.003, 210.148, 210.221,
10 210.223, 210.861, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080,
11 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, and 455.538, to read as

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 follows:

37.719. 1. The office shall have the authority to and may conduct an
2 independent review of any entity within a county that has experienced
3 three or more review requests in a calendar year including, but not limited
4 to, children's division, the juvenile office, or guardian ad litem. The office
5 shall establish and implement procedures for reviewing any such entity.

6 2. The office shall have the authority to make the necessary
7 inquiries and review relevant information and records as the office deems
8 necessary in order to conduct such reviews.

9 3. The office may make recommendations on changes to any entity's
10 policies and procedures based on the results of the review in order to
11 improve the delivery of services or the function of the entity. Upon
12 completing a review under the provisions of this section, the office shall
13 submit any findings and recommendations to the children's division and the
14 office of state courts administrator.

160.975. 1. Each public school and charter school shall post in a
2 clearly visible location in a public area of the school that is readily
3 accessible to students a sign in English and in Spanish that contains the
4 toll-free child abuse and neglect hotline number established by the
5 children's division under section 210.145. Additionally, each school shall
6 post signs containing the same information in all student restrooms in the
7 school, to allow for private access to the information by students of either
8 gender.

9 2. The information contained on the signs required under subsection
10 1 of this section shall be presented on a poster at least 11 inches by 17
11 inches in size, contain large print, and be placed at eye level to the student
12 for easy viewing. The hotline number shall be displayed in bold print. The
13 signs shall contain instructions to call 911 for emergencies and directions
14 for accessing the children's division website for more information on
15 reporting abuse, neglect, and exploitation.

16 3. The children's division shall create an acronym to help children
17 to remember the toll-free child abuse and neglect hotline number.

18 4. The children's division may promulgate all necessary rules and
19 regulations for the administration of this section. Any rule or portion of
20 a rule, as that term is defined in section 536.010, that is created under the
21 authority delegated in this section shall become effective only if it complies

22 with and is subject to all of the provisions of chapter 536 and, if applicable,
23 section 536.028. This section and chapter 536 are nonseverable, and if any
24 of the powers vested with the general assembly pursuant to chapter 536 to
25 review, to delay the effective date, or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking authority
27 and any rule proposed or adopted after August 28, 2015, shall be invalid and
28 void.

210.003. 1. No child shall be permitted to enroll in or attend any public,
2 private or parochial day care center, preschool or nursery school caring for ten or
3 more children unless such child has been adequately immunized against vaccine-
4 preventable childhood illnesses specified by the department of health and senior
5 services in accordance with recommendations of the [Immunization Practices Advisory
6 Committee] **Centers for Disease Control and Prevention Advisory Committee**
7 **on Immunization Practices** (ACIP). The parent or guardian of such child shall
8 provide satisfactory evidence of the required immunizations.

9 2. A child who has not completed all immunizations appropriate for his age
10 may enroll, if:

11 (1) Satisfactory evidence is produced that such child has begun the process
12 of immunization. The child may continue to attend as long as the immunization
13 process is being accomplished according to the ACIP/Missouri department of health
14 and senior services recommended schedule; or

15 (2) The parent or guardian has signed and placed on file with the day care
16 administrator a statement of exemption which may be either of the following:

17 (a) A medical exemption, by which a child shall be exempted from the
18 requirements of this section upon certification by a licensed physician that such
19 immunization would seriously endanger the child's health or life; or

20 (b) A parent or guardian exemption, by which a child shall be exempted from
21 the requirements of this section if one parent or guardian files a written objection to
22 immunization with the day care administrator. Exemptions shall be accepted by the
23 day care administrator when the necessary information as determined by the
24 department of health and senior services is filed with the day care administrator by
25 the parent or guardian. Exemption forms shall be provided by the department of
26 health and senior services.

27 3. In the event of an outbreak or suspected outbreak of a vaccine-preventable
28 disease within a particular facility, the administrator of the facility shall follow the
29 control measures instituted by the local health authority or the department of health

30 and senior services or both the local health authority and the department of health
31 and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the
32 Control of Communicable Diseases".

33 4. The administrator of each public, private or parochial day care center,
34 preschool or nursery school shall cause to be prepared a record of immunization of
35 every child enrolled in or attending a facility under his jurisdiction. An annual
36 summary report shall be made by January fifteenth showing the immunization
37 status of each child enrolled, using forms provided for this purpose by the department
38 of health and senior services. The immunization records shall be available for review
39 by department of health and senior services personnel upon request.

40 5. For purposes of this section, satisfactory evidence of immunization means
41 a statement, certificate or record from a physician or other recognized health facility
42 or personnel, stating that the required immunizations have been given to the child
43 and verifying the type of vaccine and the month, day and year of administration.

44 6. Nothing in this section shall preclude any political subdivision from
45 adopting more stringent rules regarding the immunization of preschool children.

46 **7. All public, private, and parochial day care centers, preschools, and**
47 **nursery schools shall notify the parent or guardian of each child at the**
48 **time of initial enrollment in or attendance at the facility that the parent or**
49 **guardian may request notice of whether there are children currently**
50 **enrolled in or attending the facility for whom an immunization exemption**
51 **has been filed. Beginning December 1, 2015, all public, private, and**
52 **parochial day care centers, preschools, and nursery schools shall notify the**
53 **parent or guardian of each child currently enrolled in or attending the**
54 **facility that the parent or guardian may request notice of whether there**
55 **are children currently enrolled in or attending the facility for whom an**
56 **immunization exemption has been filed. Any public, private, or parochial**
57 **day care center, preschool, or nursery school shall notify the parent or**
58 **guardian of a child enrolled in or attending the facility, upon request, of**
59 **whether there are children currently enrolled in or attending the facility**
60 **for whom an immunization exemption has been filed.**

210.148. 1. Notwithstanding any provision of section 210.145 to the
2 contrary, upon the receipt of a report under section 210.145 where the
3 subject of the report is a juvenile with problem sexual behavior, the
4 division shall immediately communicate such report to the appropriate
5 local office along with any relevant information as may be contained in the

6 information system. Upon receipt of the report and relevant information,
7 the local office shall use a family assessment and services approach, as
8 described in subsection 14 of section 210.145 to respond to the allegation
9 contained in the report. For the purposes of family assessments performed
10 under this section, the alleged abuse does not have to be committed by a
11 person responsible for the care, custody, and control of the child.

12 2. Nothing in this section shall prohibit the local office from
13 commencing an investigation if the local office, at any point in using the
14 family assessment and services approach, determines that an investigation
15 is required. Such investigation shall comply with the provisions of section
16 210.145 and may include requesting assistance from the appropriate law
17 enforcement agency.

18 3. As used in this section, the term "juvenile with problem sexual
19 behavior" shall mean any person, under fourteen years of age, who has
20 allegedly committed sexual abuse against another child.

21 4. Within one hundred eighty days after August 28, 2015, the division
22 shall promulgate rules to implement the provisions of this section. Any
23 rule or portion of a rule, as that term is defined in section 536.010 that is
24 created under the authority delegated in this section shall become effective
25 only if it complies with and is subject to all of the provisions of chapter 536,
26 and, if applicable, section 536.028. This section and chapter 536 are
27 nonseverable, and if any of the powers vested with the general assembly
28 pursuant to chapter 536, to review, to delay the effective date, or to
29 disapprove and annul a rule are subsequently held unconstitutional, then
30 the grant of rulemaking authority and any rule proposed or adopted after
31 August 28, 2015, shall be invalid and void.

210.221. 1. The department of health and senior services shall have the
2 following powers and duties:

3 (1) After inspection, to grant licenses to persons to operate child-care facilities
4 if satisfied as to the good character and intent of the applicant and that such
5 applicant is qualified and equipped to render care or service conducive to the welfare
6 of children, and to renew the same when expired. No license shall be granted for a
7 term exceeding two years. Each license shall specify the kind of child-care services
8 the licensee is authorized to perform, the number of children that can be received or
9 maintained, and their ages and sex;

10 (2) To inspect the conditions of the homes and other places in which the

11 applicant operates a child-care facility, inspect their books and records, premises and
12 children being served, examine their officers and agents, deny, suspend, place on
13 probation or revoke the license of such persons as fail to obey the provisions of
14 sections 210.201 to 210.245 or the rules and regulations made by the department of
15 health and senior services. The director also may revoke or suspend a license when
16 the licensee fails to renew or surrenders the license;

17 (3) To promulgate and issue rules and regulations the department deems
18 necessary or proper in order to establish standards of service and care to be rendered
19 by such licensees to children. No rule or regulation promulgated by the division shall
20 in any manner restrict or interfere with any religious instruction, philosophies or
21 ministries provided by the facility and shall not apply to facilities operated by
22 religious organizations which are not required to be licensed; [and]

23 (4) **To approve training concerning the safe sleep recommendations**
24 **of the American Academy of Pediatrics in accordance with section 210.223;**
25 **and**

26 (5) To determine what records shall be kept by such persons and the form
27 thereof, and the methods to be used in keeping such records, and to require reports
28 to be made to the department at regular intervals.

29 2. Any child-care facility may request a variance from a rule or regulation
30 promulgated pursuant to this section. The request for a variance shall be made in
31 writing to the department of health and senior services and shall include the reasons
32 the facility is requesting the variance. The department shall approve any variance
33 request that does not endanger the health or safety of the children served by the
34 facility. The burden of proof at any appeal of a disapproval of a variance application
35 shall be with the department of health and senior services. Local inspectors may
36 grant a variance, subject to approval by the department of health and senior
37 services.

38 3. The department shall deny, suspend, place on probation or revoke a license
39 if it receives official written notice that the local governing body has found that
40 license is prohibited by any local law related to the health and safety of
41 children. The department may, after inspection, find the licensure, denial of
42 licensure, suspension or revocation to be in the best interest of the state.

43 4. Any rule or portion of a rule, as that term is defined in section 536.010,
44 that is created under the authority delegated in sections 210.201 to 210.245 shall
45 become effective only if it complies with and is subject to all of the provisions of
46 chapter 536, and, if applicable, section 536.028. All rulemaking authority delegated

47 prior to August 28, 1999, is of no force and effect and repealed. Nothing in this
48 section shall be interpreted to repeal or affect the validity of any rule filed or adopted
49 prior to August 28, 1999, if it fully complied with all applicable provisions of
50 law. This section and chapter 536 are nonseverable and if any of the powers vested
51 with the general assembly pursuant to chapter 536 to review, to delay the effective
52 date or to disapprove and annul a rule are subsequently held unconstitutional, then
53 the grant of rulemaking authority and any rule proposed or adopted after August 28,
54 1999, shall be invalid and void.

210.223. 1. All licensed child care facilities that provide care for
2 **children less than one year of age shall implement and maintain a written**
3 **safe sleep policy in accordance with the most recent safe sleep**
4 **recommendations of the American Academy of Pediatrics. The purpose of**
5 **the safe sleep policy is to maintain a safe sleep environment that reduces**
6 **the risk of sudden infant death syndrome and sudden unexpected infant**
7 **deaths in children less than one year of age.**

8 **2. When, in the opinion of the infant's licensed health care provider,**
9 **an infant requires alternative sleep positions or special sleeping**
10 **arrangements that differ from those set forth in the most recent sleep**
11 **recommendations of the American Academy of Pediatrics, the child care**
12 **facility shall be provided with written instructions, signed by the infant's**
13 **licensed health care provider, detailing the alternative sleep positions or**
14 **special sleeping arrangements for such infant. The child care facility shall**
15 **put the infant to sleep in accordance with such written instructions.**

16 **3. As used in this section, the following terms shall mean:**

17 **(1) "Sudden infant death syndrome", the sudden death of an infant**
18 **less than one year of age that cannot be explained after a thorough**
19 **investigation has been conducted, including a complete autopsy, an**
20 **examination of the death scene, and a review of the clinical history;**

21 **(2) "Sudden unexpected infant death", the sudden and unexpected**
22 **death of an infant less than one year of age in which the manner and cause**
23 **of death are not immediately obvious prior to investigation. Causes of**
24 **sudden unexpected infant death include, but are not limited to, metabolic**
25 **disorders, hypothermia or hyperthermia, neglect or homicide, poisoning,**
26 **and accidental suffocation.**

27 **4. All employees of licensed child care facilities who care for infants**
28 **less than one year of age or any volunteer who may be assisting at the**

29 facility shall successfully complete department-approved training on the
30 most recent safe sleep recommendations of the American Academy of
31 Pediatrics every three years.

32 5. The department shall promulgate rules to implement the
33 provisions of this section. Such rules shall include, but not be limited to:

34 (1) Amending any current rules which are not in compliance with
35 the most recent safe sleep recommendations of the American Academy of
36 Pediatrics, including but not limited to 19 CSR 30.62-092(1)C which permits
37 the use of bumper pads in cribs or playpens;

38 (2) Keeping soft or loose bedding away from sleeping infants and out
39 of safe sleep environments including, but not limited to, bumper pads,
40 pillows, quilts, comforters, sleep positioning devices, sheepskins, blankets,
41 flat sheets, cloth diapers, bibs, and other similar items; and

42 (3) Prohibiting blankets or other soft or loose bedding from being
43 hung on the sides of cribs.

44 6. The department may adopt emergency rules to implement the
45 requirements of this section. Any rule or portion of a rule, as that term is
46 defined in section 536.010, that is created under the authority delegated in
47 this section shall become effective only if it complies with and is subject to
48 all of the provisions of chapter 536 and, if applicable, section 536.028. This
49 section and chapter 536 are nonseverable, and if any of the powers vested
50 with the general assembly pursuant to chapter 536 to review, to delay the
51 effective date, or to disapprove and annul a rule are subsequently held
52 unconstitutional, then the grant of rulemaking authority and any rule
53 proposed or adopted after the effective date of this section shall be invalid
54 and void.

210.861. 1. When the tax prescribed by section 210.860 or section 67.1775
2 is established, the governing body of the city or county or city not within a county
3 shall appoint a board of directors consisting of nine members, who shall be residents
4 of the city or county or city not within a county. All board members shall be
5 appointed to serve for a term of three years, except that of the first board appointed,
6 three members shall be appointed for one-year terms, three members for two-year
7 terms and three members for three-year terms. Board members may be reappointed
8 a city not within a county, or any county of the first classification with a charter
9 form of government with a population not less than nine hundred thousand
10 inhabitants, or any county of the first classification with a charter form of

11 government with a population not less than two hundred thousand inhabitants and
12 not more than six hundred thousand inhabitants, or any noncharter county of the
13 first classification with a population not less than one hundred seventy thousand and
14 not more than two hundred thousand inhabitants, or any noncharter county of the
15 first classification with a population not less than eighty thousand and not more than
16 eighty-three thousand inhabitants, or any third classification county with a
17 population not less than twenty-eight thousand and not more than thirty thousand
18 inhabitants, or any county of the third classification with a population not less than
19 nineteen thousand five hundred and not more than twenty thousand inhabitants the
20 members of the community mental health board of trustees appointed pursuant to
21 the provisions of sections 205.975 to 205.990 shall be the board members for the
22 community children's services fund. The directors shall not receive compensation for
23 their services, but may be reimbursed for their actual and necessary expenses.

24 2. The board shall elect a chairman, vice chairman, treasurer, and such other
25 officers as it deems necessary for its membership. Before taking office, the treasurer
26 shall furnish a surety bond **or comparable insurance coverage for theft,**
27 **misappropriation, mismanagement, or other acts,** in an amount to be
28 determined and in a form to be approved by the board, for the faithful performance
29 of his or her duties and faithful accounting of all moneys that may come into his or
30 her hands. The treasurer shall enter into the surety bond **or comparable**
31 **insurance coverage** with a surety company **or insurer** authorized to do business
32 in Missouri, and the cost of such bond **or comparable insurance coverage** shall
33 be paid by the board of directors. The board shall administer and expend all funds
34 generated pursuant to section 210.860 or section 67.1775 in a manner consistent
35 with this section. **The board shall not be mandated to expend funds by an act**
36 **of state legislation without a majority vote of the county or city not within**
37 **a county, excluding any county with a charter form of government and**
38 **with more than nine hundred fifty thousand inhabitants.**

39 3. The board may contract with public or not-for-profit agencies licensed or
40 certified where appropriate to provide qualified services and may place conditions on
41 the use of such funds. The board shall reserve the right to audit the expenditure of
42 any and all funds. The board and any agency with which the board contracts may
43 establish eligibility standards for the use of such funds and the receipt of services. No
44 member of the board shall serve on the governing body, have any financial interest
45 in, or be employed by any agency which is a recipient of funds generated pursuant
46 to section 210.860 or section 67.1775.

47 4. Revenues collected and deposited in the community children's services fund
48 may be expended for the purchase of the following services:

49 (1) Up to thirty days of temporary shelter for abused, neglected, runaway,
50 homeless or emotionally disturbed youth; respite care services; and services to unwed
51 mothers;

52 (2) Outpatient chemical dependency and psychiatric treatment programs;
53 counseling and related services as a part of transitional living programs; home-based
54 and community-based family intervention programs; unmarried parent services; crisis
55 intervention services, inclusive of telephone hotlines; and prevention programs which
56 promote healthy lifestyles among children and youth and strengthen families;

57 (3) Individual, group, or family professional counseling and therapy services;
58 psychological evaluations; and mental health screenings.

59 **5. Any county, excluding any county with a charter form of**
60 **government and with more than nine hundred fifty thousand inhabitants,**
61 **or city not within a county in which voters have approved the levy of a tax**
62 **under section 67.1775 or section 210.860 shall not add services in addition**
63 **to those which are set forth in subsection 4 of this section at the time such**
64 **levy is approved by the voters, unless such services authorized by statute**
65 **after the voters have approved the levy are approved by the voters in the**
66 **same manner as the original levy was approved. A proposal to add services**
67 **shall be approved as set forth in section 67.1775 or section 210.860.**

68 **6.** Revenues collected and deposited in the community children's services fund
69 may not be expended for inpatient medical, psychiatric, and chemical dependency
70 services, or for transportation services.

 455.010. As used in this chapter, 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
4 following acts, attempts or threats against a person who may be protected pursuant
5 to this chapter, except abuse shall not include abuse inflicted on a child by accidental
6 means by an adult household member or discipline of a child, including spanking, in
7 a reasonable manner:

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

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

12 (c) "Coercion", compelling another by force or threat of force to engage in

13 conduct from which the latter has a right to abstain or to abstain from conduct in
14 which the person has a right to engage;

15 (d) "Harassment", engaging in a purposeful or knowing course of conduct
16 involving more than one incident that alarms or causes distress to an adult or child
17 and serves no legitimate purpose. The course of conduct must be such as would
18 cause a reasonable adult or child to suffer substantial emotional distress and must
19 actually cause substantial emotional distress to the petitioner or child. Such conduct
20 might include, but is not limited to:

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

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

24 (e) "Sexual assault", causing or attempting to cause another to engage
25 involuntarily in any sexual act by force, threat of force, [or] duress, **or without that**
26 **person's consent**;

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

29 (2) "Adult", any person seventeen years of age or older or otherwise
30 emancipated;

31 (3) "Child", any person under seventeen years of age unless otherwise
32 emancipated;

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

35 (5) "Domestic violence", abuse or stalking committed by a family or household
36 member, as such terms are defined in this section;

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

40 (7) "Family" or "household member", spouses, former spouses, any person
41 related by blood or marriage, persons who are presently residing together or have
42 resided together in the past, any person who is or has been in a continuing social
43 relationship of a romantic or intimate nature with the victim, and anyone who has
44 a child in common regardless of whether they have been married or have resided
45 together at any time;

46 (8) "Full order of protection", an order of protection issued after a hearing on
47 the record where the respondent has received notice of the proceedings and has had
48 an opportunity to be heard;

49 (9) "Order of protection", either an ex parte order of protection or a full order
50 of protection;

51 (10) "Pending", exists or for which a hearing date has been set;

52 (11) "Petitioner", a family or household member who has been a victim of
53 domestic violence, or any person who has been the victim of stalking **or sexual**
54 **assault**, or a person filing on behalf of a child pursuant to section 455.503 who has
55 filed a verified petition pursuant to the provisions of section 455.020 or section
56 455.505;

57 (12) "Respondent", the family or household member alleged to have
58 committed an act of domestic violence, or person alleged to have committed an act of
59 stalking **or sexual assault**, against whom a verified petition has been filed or a
60 person served on behalf of a child pursuant to section 455.503;

61 (13) **"Sexual assault", as defined under subdivision (1) of this section;**

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

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

68 (b) "Course of conduct" means a pattern of conduct composed of
69 [repeated] **two or more** acts over a period of time, however short, that serves no
70 legitimate purpose. Such conduct may include, but is not limited to, following the
71 other person or unwanted communication or unwanted contact[]; and

72 (c) "Repeated" means two or more incidents evidencing a continuity of
73 purpose].

455.020. 1. Any person who has been subject to domestic violence by a
2 present or former family or household member, or who has been the victim of
3 stalking **or sexual assault**, may seek relief under sections 455.010 to 455.085 by
4 filing a verified petition alleging such domestic violence [or], stalking, **or sexual**
5 **assault** by the respondent.

6 2. A person's right to relief under sections 455.010 to 455.085 shall not be
7 affected by the person leaving the residence or household to avoid domestic violence.

8 3. Any protection order issued pursuant to sections 455.010 to 455.085 shall
9 be effective throughout the state in all cities and counties.

455.032. In addition to any other jurisdictional grounds provided by law, a
2 court shall have jurisdiction to enter an order of protection restraining or enjoining

3 the respondent from committing or threatening to commit domestic violence, stalking,
4 **sexual assault**, molesting or disturbing the peace of petitioner, pursuant to sections
5 455.010 to 455.085, if the petitioner is present, whether permanently or on a
6 temporary basis within the state of Missouri and if the respondent's actions
7 constituting domestic violence have occurred, have been attempted or have been or
8 are threatened within the state of Missouri. For purposes of this section, if the
9 petitioner has been the subject of domestic violence within or outside of the state of
10 Missouri, such evidence shall be admissible to demonstrate the need for protection in
11 Missouri.

455.040. 1. Not later than fifteen days after the filing of a petition that
2 meets the requirements of section 455.020, a hearing shall be held unless the court
3 deems, for good cause shown, that a continuance should be granted. At the hearing,
4 if the petitioner has proved the allegation of domestic violence [or], stalking, **or**
5 **sexual assault** by a preponderance of the evidence, and the respondent cannot
6 show that his or her actions alleged to constitute abuse were otherwise justified
7 under the law, the court shall issue a full order of protection for a period of time the
8 court deems appropriate, except that the protective order shall be valid for at least
9 one hundred eighty days and not more than one year. Upon motion by the
10 petitioner, and after a hearing by the court, the full order of protection may be
11 renewed for a period of time the court deems appropriate, except that the protective
12 order shall be valid for at least one hundred eighty days and not more than one year
13 from the expiration date of the originally issued full order of protection. The court
14 may, upon finding that it is in the best interest of the parties, include a provision
15 that any full order of protection for one year shall automatically renew unless the
16 respondent requests a hearing by thirty days prior to the expiration of the order. If
17 for good cause a hearing cannot be held on the motion to renew or the objection to
18 an automatic renewal of the full order of protection prior to the expiration date of the
19 originally issued full order of protection, an ex parte order of protection may be
20 issued until a hearing is held on the motion. When an automatic renewal is not
21 authorized, upon motion by the petitioner, and after a hearing by the court, the
22 second full order of protection may be renewed for an additional period of time the
23 court deems appropriate, except that the protective order shall be valid for at least
24 one hundred eighty days and not more than one year. For purposes of this
25 subsection, a finding by the court of a subsequent act of domestic violence [or],
26 stalking, **or sexual assault** is not required for a renewal order of protection.

27 2. The court shall cause a copy of the petition and notice of the date set for

28 the hearing on such petition and any ex parte order of protection to be served upon
29 the respondent as provided by law or by any sheriff or police officer at least three
30 days prior to such hearing. The court shall cause a copy of any full order of
31 protection to be served upon or mailed by certified mail to the respondent at the
32 respondent's last known address. Notice of an ex parte or full order of protection
33 shall be served at the earliest time, and service of such notice shall take priority over
34 service in other actions, except those of a similar emergency nature. Failure to serve
35 or mail a copy of the full order of protection to the respondent shall not affect the
36 validity or enforceability of a full order of protection.

37 3. A copy of any order of protection granted pursuant to sections 455.010 to
38 455.085 shall be issued to the petitioner and to the local law enforcement agency in
39 the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any
40 order of protection to the local law enforcement agency responsible for maintaining
41 the Missouri uniform law enforcement system or any other comparable law
42 enforcement system the same day the order is granted. The law enforcement agency
43 responsible for maintaining MULES shall, for purposes of verification, within twenty-
44 four hours from the time the order is granted, enter information contained in the
45 order including but not limited to any orders regarding child custody or visitation and
46 all specifics as to times and dates of custody or visitation that are provided in the
47 order. A notice of expiration or of termination of any order of protection or any
48 change in child custody or visitation within that order shall be issued to the local law
49 enforcement agency and to the law enforcement agency responsible for maintaining
50 MULES or any other comparable law enforcement system. The law enforcement
51 agency responsible for maintaining the applicable law enforcement system shall enter
52 such information in the system within twenty-four hours of receipt of information
53 evidencing such expiration or termination. The information contained in an order
54 of protection may be entered in the Missouri uniform law enforcement system or
55 comparable law enforcement system using a direct automated data transfer from the
56 court automated system to the law enforcement system.

57 4. The court shall cause a copy of any objection filed by the respondent and
58 notice of the date set for the hearing on such objection to an automatic renewal of
59 a full order of protection for a period of one year to be personally served upon the
60 petitioner by personal process server as provided by law or by a sheriff or police
61 officer at least three days prior to such hearing. Such service of process shall be
62 served at the earliest time and shall take priority over service in other actions except
63 those of a similar emergency nature.

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

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

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

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

19 (4) A temporary order of custody of minor children where appropriate.

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

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

8 (2) Temporarily enjoining the respondent from entering the premises of the
9 dwelling unit 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
13 than respondent; provided, however, no spouse shall be denied relief pursuant to this
14 section by 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;
16 provided that the respondent has no property interest in the dwelling unit; or

17 (3) Temporarily enjoining the respondent from communicating with the

18 petitioner in any manner or through any medium.

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

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

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

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

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

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

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

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

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

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

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

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

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

50 (12) Order the respondent to pay the cost of medical treatment and services
51 that have been provided or that are being provided to the petitioner as a result of
52 injuries sustained to the petitioner by an act of domestic violence committed by the
53 respondent.

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

59 5. In making an award of custody, the court shall consider all relevant
60 factors including the presumption that the best interests of the child will be served
61 by placing the child in the custody and care of the nonabusive parent, unless there
62 is evidence that both parents have engaged in abusive behavior, in which case the
63 court shall not consider this presumption but may appoint a guardian ad litem or a
64 court-appointed special advocate to represent the children in accordance with chapter
65 452 and shall consider all other factors in accordance with chapter 452.

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

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

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

455.080. 1. Law enforcement agencies may establish procedures to ensure
2 that dispatchers and officers at the scene of an alleged incident of domestic violence
3 [or], stalking, **sexual assault**, or violation of an order of protection can be informed
4 of any recorded prior incident of domestic violence [or], stalking, **or sexual assault**
5 involving the abused party and can verify the effective dates and terms of any
6 recorded order of protection.

7 2. The law enforcement agency shall apply the same standard for response

8 to an alleged incident of domestic violence [or], stalking, **sexual assault**, or a
9 violation of any order of protection as applied to any like offense involving strangers,
10 except as otherwise provided by law. Law enforcement agencies shall not assign
11 lower priority to calls involving alleged incidents of domestic violence [or], stalking,
12 **sexual assault**, or violation of protection orders than is assigned in responding to
13 offenses involving strangers. Existence of any of the following factors shall be
14 interpreted as indicating a need for immediate response:

- 15 (1) The caller indicates that violence is imminent or in progress; or
- 16 (2) A protection order is in effect; or
- 17 (3) The caller indicates that incidents of domestic violence have occurred
18 previously between the parties.

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

26 4. The officer at the scene of an alleged incident of domestic violence [or],
27 stalking, **or sexual assault** shall inform the abused party of available judicial
28 remedies for relief from domestic violence and of available shelters for victims of
29 domestic violence.

30 5. Law enforcement officials at the scene shall provide or arrange
31 transportation for the abused party to a medical facility for treatment of injuries or
32 to a place of shelter or safety.

455.085. 1. When a law enforcement officer has probable cause to believe
2 a party has committed a violation of law amounting to domestic violence, as defined
3 in section 455.010, against a family or household member, the officer may arrest the
4 offending party whether or not the violation occurred in the presence of the arresting
5 officer. When the officer declines to make arrest pursuant to this subsection, the
6 officer shall make a written report of the incident completely describing the offending
7 party, giving the victim's name, time, address, reason why no arrest was made and
8 any other pertinent information. Any law enforcement officer subsequently called
9 to the same address within a twelve-hour period, who shall find probable cause to
10 believe the same offender has again committed a violation as stated in this subsection
11 against the same or any other family or household member, shall arrest the

12 offending party for this subsequent offense. The primary report of nonarrest in the
13 preceding twelve-hour period may be considered as evidence of the defendant's intent
14 in the violation for which arrest occurred. The refusal of the victim to sign an official
15 complaint against the violator shall not prevent an arrest under this subsection.

16 2. When a law enforcement officer has probable cause to believe that a party,
17 against whom a protective order has been entered and who has notice of such order
18 entered, has committed an act of abuse in violation of such order, the officer shall
19 arrest the offending party-respondent whether or not the violation occurred in the
20 presence of the arresting officer. Refusal of the victim to sign an official complaint
21 against the violator shall not prevent an arrest under this subsection.

22 3. When an officer makes an arrest, the officer is not required to arrest two
23 parties involved in an assault when both parties claim to have been assaulted. The
24 arresting officer shall attempt to identify and shall arrest the party the officer
25 believes is the primary physical aggressor. The term "primary physical aggressor" is
26 defined as the most significant, rather than the first, aggressor. The law enforcement
27 officer shall consider any or all of the following in determining the primary physical
28 aggressor:

29 (1) The intent of the law to protect victims from continuing domestic violence;

30 (2) The comparative extent of injuries inflicted or serious threats creating fear
31 of physical injury;

32 (3) The history of domestic violence between the persons involved.

33 No law enforcement officer investigating an incident of domestic violence shall
34 threaten the arrest of all parties for the purpose of discouraging requests or law
35 enforcement intervention by any party. Where complaints are received from two or
36 more opposing parties, the officer shall evaluate each complaint separately to
37 determine whether the officer should seek a warrant for an arrest.

38 4. In an arrest in which a law enforcement officer acted in good faith reliance
39 on this section, the arresting and assisting law enforcement officers and their
40 employing entities and superiors shall be immune from liability in any civil action
41 alleging false arrest, false imprisonment or malicious prosecution.

42 5. When a person against whom an order of protection has been entered fails
43 to surrender custody of minor children to the person to whom custody was awarded
44 in an order of protection, the law enforcement officer shall arrest the respondent, and
45 shall turn the minor children over to the care and custody of the party to whom such
46 care and custody was awarded.

47 6. The same procedures, including those designed to protect constitutional

48 rights, shall be applied to the respondent as those applied to any individual detained
49 in police custody.

50 7. A violation of the terms and conditions, with regard to domestic violence,
51 stalking, **sexual assault**, child custody, communication initiated by the respondent
52 or entrance upon the premises of the petitioner's dwelling unit or place of
53 employment or school, or being within a certain distance of the petitioner or a child
54 of the petitioner, of an ex parte order of protection of which the respondent has
55 notice, shall be a class A misdemeanor unless the respondent has previously pleaded
56 guilty to or has been found guilty in any division of the circuit court of violating an
57 ex parte order of protection or a full order of protection within five years of the date
58 of the subsequent violation, in which case the subsequent violation shall be a class
59 E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the
60 court out of the presence of the jury prior to submission of the case to the jury. If
61 the court finds the existence of such prior pleas of guilty or finding of guilt beyond
62 a reasonable doubt, the court shall decide the extent or duration of sentence or other
63 disposition and shall not instruct the jury as to the range of punishment or allow the
64 jury to assess and declare the punishment as a part of its verdict.

65 8. A violation of the terms and conditions, with regard to domestic violence,
66 stalking, **sexual assault**, child custody, communication initiated by the respondent
67 or entrance upon the premises of the petitioner's dwelling unit or place of
68 employment or school, or being within a certain distance of the petitioner or a child
69 of the petitioner, of a full order of protection shall be a class A misdemeanor, unless
70 the respondent has previously pleaded guilty to or has been found guilty in any
71 division of the circuit court of violating an ex parte order of protection or a full order
72 of protection within five years of the date of the subsequent violation, in which case
73 the subsequent violation shall be a class E felony. Evidence of prior pleas of guilty
74 or findings of guilt shall be heard by the court out of the presence of the jury prior
75 to submission of the case to the jury. If the court finds the existence of such prior
76 plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the
77 extent or duration of the sentence or other disposition and shall not instruct the jury
78 as to the range of punishment or allow the jury to assess and declare the punishment
79 as a part of its verdict. For the purposes of this subsection, in addition to the notice
80 provided by actual service of the order, a party is deemed to have notice of an order
81 of protection if the law enforcement officer responding to a call of a reported incident
82 of domestic violence, stalking, **sexual assault**, or violation of an order of protection
83 presented a copy of the order of protection to the respondent.

84 9. Good faith attempts to effect a reconciliation of a marriage shall not be
85 deemed tampering with a witness or victim tampering under section 575.270.

86 10. Nothing in this section shall be interpreted as creating a private cause
87 of action for damages to enforce the provisions set forth herein.

 455.085. 1. When a law enforcement officer has probable cause to believe
2 a party has committed a violation of law amounting to domestic violence, as defined
3 in section 455.010, against a family or household member, the officer may arrest the
4 offending party whether or not the violation occurred in the presence of the arresting
5 officer. When the officer declines to make arrest pursuant to this subsection, the
6 officer shall make a written report of the incident completely describing the offending
7 party, giving the victim's name, time, address, reason why no arrest was made and
8 any other pertinent information. Any law enforcement officer subsequently called
9 to the same address within a twelve-hour period, who shall find probable cause to
10 believe the same offender has again committed a violation as stated in this subsection
11 against the same or any other family or household member, shall arrest the
12 offending party for this subsequent offense. The primary report of nonarrest in the
13 preceding twelve-hour period may be considered as evidence of the defendant's intent
14 in the violation for which arrest occurred. The refusal of the victim to sign an official
15 complaint against the violator shall not prevent an arrest under this subsection.

16 2. When a law enforcement officer has probable cause to believe that a party,
17 against whom a protective order has been entered and who has notice of such order
18 entered, has committed an act of abuse in violation of such order, the officer shall
19 arrest the offending party-respondent whether or not the violation occurred in the
20 presence of the arresting officer. Refusal of the victim to sign an official complaint
21 against the violator shall not prevent an arrest under this subsection.

22 3. When an officer makes an arrest, the officer is not required to arrest two
23 parties involved in an assault when both parties claim to have been assaulted. The
24 arresting officer shall attempt to identify and shall arrest the party the officer
25 believes is the primary physical aggressor. The term "primary physical aggressor" is
26 defined as the most significant, rather than the first, aggressor. The law enforcement
27 officer shall consider any or all of the following in determining the primary physical
28 aggressor:

- 29 (1) The intent of the law to protect victims from continuing domestic violence;
30 (2) The comparative extent of injuries inflicted or serious threats creating fear
31 of physical injury;
32 (3) The history of domestic violence between the persons involved.

33 No law enforcement officer investigating an incident of domestic violence shall
34 threaten the arrest of all parties for the purpose of discouraging requests or law
35 enforcement intervention by any party. Where complaints are received from two or
36 more opposing parties, the officer shall evaluate each complaint separately to
37 determine whether the officer should seek a warrant for an arrest.

38 4. In an arrest in which a law enforcement officer acted in good faith reliance
39 on this section, the arresting and assisting law enforcement officers and their
40 employing entities and superiors shall be immune from liability in any civil action
41 alleging false arrest, false imprisonment or malicious prosecution.

42 5. When a person against whom an order of protection has been entered fails
43 to surrender custody of minor children to the person to whom custody was awarded
44 in an order of protection, the law enforcement officer shall arrest the respondent, and
45 shall turn the minor children over to the care and custody of the party to whom such
46 care and custody was awarded.

47 6. The same procedures, including those designed to protect constitutional
48 rights, shall be applied to the respondent as those applied to any individual detained
49 in police custody.

50 7. A violation of the terms and conditions, with regard to domestic violence,
51 stalking, **sexual assault**, child custody, communication initiated by the respondent
52 or entrance upon the premises of the petitioner's dwelling unit or place of
53 employment or school, or being within a certain distance of the petitioner or a child
54 of the petitioner, of an ex parte order of protection of which the respondent has
55 notice, shall be a class A misdemeanor unless the respondent has previously pleaded
56 guilty to or has been found guilty in any division of the circuit court of violating an
57 ex parte order of protection or a full order of protection within five years of the date
58 of the subsequent violation, in which case the subsequent violation shall be a class
59 D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the
60 court out of the presence of the jury prior to submission of the case to the jury. If
61 the court finds the existence of such prior pleas of guilty or finding of guilt beyond
62 a reasonable doubt, the court shall decide the extent or duration of sentence or other
63 disposition and shall not instruct the jury as to the range of punishment or allow the
64 jury to assess and declare the punishment as a part of its verdict.

65 8. A violation of the terms and conditions, with regard to domestic violence,
66 stalking, **sexual assault**, child custody, communication initiated by the respondent
67 or entrance upon the premises of the petitioner's dwelling unit or place of
68 employment or school, or being within a certain distance of the petitioner or a child

69 of the petitioner, of a full order of protection shall be a class A misdemeanor, unless
70 the respondent has previously pleaded guilty to or has been found guilty in any
71 division of the circuit court of violating an ex parte order of protection or a full order
72 of protection within five years of the date of the subsequent violation, in which case
73 the subsequent violation shall be a class D felony. Evidence of prior pleas of guilty
74 or findings of guilt shall be heard by the court out of the presence of the jury prior
75 to submission of the case to the jury. If the court finds the existence of such prior
76 plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the
77 extent or duration of the sentence or other disposition and shall not instruct the jury
78 as to the range of punishment or allow the jury to assess and declare the punishment
79 as a part of its verdict. For the purposes of this subsection, in addition to the notice
80 provided by actual service of the order, a party is deemed to have notice of an order
81 of protection if the law enforcement officer responding to a call of a reported incident
82 of domestic violence, stalking, **sexual assault**, or violation of an order of protection
83 presented a copy of the order of protection to the respondent.

84 9. Good faith attempts to effect a reconciliation of a marriage shall not be
85 deemed tampering with a witness or victim tampering under section 575.270.

86 10. Nothing in this section shall be interpreted as creating a private cause
87 of action for damages to enforce the provisions set forth herein.

455.503. 1. A petition for an order of protection for a child shall be filed in
2 the county where the child resides, where the alleged incident of domestic violence
3 [or], stalking, or **sexual assault** occurred, or where the respondent may be served.

4 2. Such petition may be filed by any of the following:

5 (1) A parent or guardian of the victim;

6 (2) A guardian ad litem or court-appointed special advocate appointed for the
7 victim; or

8 (3) The juvenile officer.

455.505. 1. An order of protection for a child who has been subject to
2 domestic violence by a present or former household member or [person] **sexual**
3 **assault or** stalking [the child] **by any person** may be sought under sections
4 455.500 to 455.538 by the filing of a verified petition alleging such domestic violence
5 [or], stalking, or **sexual assault** by the respondent.

6 2. A child's right to relief under sections 455.500 to 455.538 shall not be
7 affected by the child's leaving the residence or household to avoid domestic violence.

8 3. Any protection order issued pursuant to sections 455.500 to 455.538 shall
9 be effective throughout the state in all cities and counties.

455.513. 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding that no prior order regarding custody is pending or has been made or that the respondent is less than seventeen years of age, the court may immediately issue an ex parte order of protection. An immediate and present danger of domestic violence [or], stalking, **or sexual assault** to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

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

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

4. If the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than seventeen years of age, the court may issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order of protection. Service 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 shall be to protect the victim from domestic violence [or], stalking, **or sexual assault** and may include such terms as the court reasonably deems necessary to ensure the victim's safety, including but not limited to:

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

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

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

(4) A temporary order of custody of minor children.

2. No ex parte order of protection excluding the respondent from the family

14 home shall be issued unless the court finds that:

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

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

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

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

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

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

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

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

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

19 (2) Award visitation;

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

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

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

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

29 (7) Order the respondent to pay, to the extent that he or she is able, the costs

30 of his or her treatment, together with the treatment costs incurred by the victim;

31 (8) Order the respondent to pay a reasonable fee for housing and other
32 services that have been provided or that are being provided to the victim by a shelter
33 for victims of domestic violence.

455.538. 1. When a law enforcement officer has probable cause to believe
2 that a party, against whom a protective order for a child has been entered, has
3 committed an act in violation of that order, the officer shall have the authority to
4 arrest the respondent whether or not the violation occurred in the presence of the
5 arresting officer.

6 2. When a person, against whom an order of protection for a child has been
7 entered, fails to surrender custody of minor children to the person to whom custody
8 was awarded in an order of protection, the law enforcement officer shall arrest the
9 respondent, and shall turn the minor children over to the care and custody of the
10 party to whom such care and custody was awarded.

11 3. The same procedures, including those designed to protect constitutional
12 rights, shall be applied to the respondent as those applied to any individual detained
13 in police custody.

14 4. (1) Violation of the terms and conditions of an ex parte or full order of
15 protection with regard to domestic violence, stalking, **sexual assault**, child custody,
16 communication initiated by the respondent, or entrance upon the premises of the
17 victim's dwelling unit or place of employment or school, or being within a certain
18 distance of the petitioner or a child of the petitioner, of which the respondent has
19 notice, shall be a class A misdemeanor, unless the respondent has previously pleaded
20 guilty to or has been found guilty in any division of the circuit court of violating an
21 ex parte order of protection or a full order of protection within five years of the date
22 of the subsequent violation, in which case the subsequent violation shall be a class
23 E felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the
24 court out of the presence of the jury prior to submission of the case to the jury. If
25 the court finds the existence of a prior plea of guilty or finding of guilt beyond a
26 reasonable doubt, the court shall decide the extent or duration of sentence or other
27 disposition and shall not instruct the jury as to the range of punishment or allow the
28 jury to assess and declare the punishment as a part of its verdict.

29 (2) For purposes of this subsection, in addition to the notice provided by
30 actual service of the order, a party is deemed to have notice of an order of protection
31 for a child if the law enforcement officer responding to a call of a reported incident
32 of domestic violence [or], stalking, **sexual assault**, or violation of an order of

33 protection for a child presents a copy of the order of protection to the respondent.

34 5. The fact that an act by a respondent is a violation of a valid order of
35 protection for a child shall not preclude prosecution of the respondent for other crimes
36 arising out of the incident in which the protection order is alleged to have been
37 violated.

455.538. 1. When a law enforcement officer has probable cause to believe
2 that a party, against whom a protective order for a child has been entered, has
3 committed an act in violation of that order, the officer shall have the authority to
4 arrest the respondent whether or not the violation occurred in the presence of the
5 arresting officer.

6 2. When a person, against whom an order of protection for a child has been
7 entered, fails to surrender custody of minor children to the person to whom custody
8 was awarded in an order of protection, the law enforcement officer shall arrest the
9 respondent, and shall turn the minor children over to the care and custody of the
10 party to whom such care and custody was awarded.

11 3. The same procedures, including those designed to protect constitutional
12 rights, shall be applied to the respondent as those applied to any individual detained
13 in police custody.

14 4. (1) Violation of the terms and conditions of an ex parte or full order of
15 protection with regard to domestic violence, stalking, **sexual assault**, child custody,
16 communication initiated by the respondent, or entrance upon the premises of the
17 victim's dwelling unit or place of employment or school, or being within a certain
18 distance of the petitioner or a child of the petitioner, of which the respondent has
19 notice, shall be a class A misdemeanor, unless the respondent has previously pleaded
20 guilty to or has been found guilty in any division of the circuit court of violating an
21 ex parte order of protection or a full order of protection within five years of the date
22 of the subsequent violation, in which case the subsequent violation shall be a class
23 D felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the
24 court out of the presence of the jury prior to submission of the case to the jury. If
25 the court finds the existence of a prior plea of guilty or finding of guilt beyond a
26 reasonable doubt, the court shall decide the extent or duration of sentence or other
27 disposition and shall not instruct the jury as to the range of punishment or allow the
28 jury to assess and declare the punishment as a part of its verdict.

29 (2) For purposes of this subsection, in addition to the notice provided by
30 actual service of the order, a party is deemed to have notice of an order of protection
31 for a child if the law enforcement officer responding to a call of a reported incident

32 of domestic violence [or], stalking, **sexual assault**, or violation of an order of
33 protection for a child presents a copy of the order of protection to the respondent.

34 5. The fact that an act by a respondent is a violation of a valid order of
35 protection for a child shall not preclude prosecution of the respondent for other crimes
36 arising out of the incident in which the protection order is alleged to have been
37 violated.

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