

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 744, Page 1, Section A, Line 2, by
2 inserting after said section and line the following:

3
4 "455.010. As used in this chapter, unless the context clearly indicates otherwise, the
5 following terms shall mean:

6 (1) "Abuse" includes but is not limited to the occurrence of any of the following acts,
7 attempts or threats against a person who may be protected pursuant to this chapter, except abuse
8 shall not include abuse inflicted on a child by accidental means by an adult household member or
9 discipline of a child, including spanking, in a reasonable manner:

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (7) "Family" or "household member", spouses, former spouses, any person related by blood

Action Taken _____ Date _____

1 or marriage, persons who are presently residing together or have resided together in the past, any
 2 person who is or has been in a continuing social relationship of a romantic or intimate nature with
 3 the victim, and anyone who has a child in common regardless of whether they have been married or
 4 have resided together at any time;

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

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

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

9 (11) "Pet", a living creature maintained by a household member for companionship and not
 10 for commercial purposes;

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

15 [(12)] (13) "Respondent", the family or household member alleged to have committed an
 16 act of domestic violence, or person alleged to have committed an act of stalking or sexual assault,
 17 against whom a verified petition has been filed or a person served on behalf of a child pursuant to
 18 section 455.503;

19 [(13)] (14) "Sexual assault", as defined under subdivision (1) of this section;

20 [(14)] (15) "Stalking" is when any person purposely engages in an unwanted course of
 21 conduct that causes alarm to another person, or a person who resides together in the same household
 22 with the person seeking the order of protection when it is reasonable in that person's situation to
 23 have been alarmed by the conduct. As used in this subdivision:

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

25 (b) "Course of conduct" means a pattern of conduct composed of two or more acts over a
 26 period of time, however short, that serves no legitimate purpose. Such conduct may include, but is
 27 not limited to, following the other person or unwanted communication or unwanted contact.

28 455.032. In addition to any other jurisdictional grounds provided by law, a court shall have
 29 jurisdiction to enter an order of protection restraining or enjoining the respondent from committing
 30 or threatening to commit domestic violence, stalking, sexual assault, molesting or disturbing the
 31 peace of petitioner, or abusing a pet, pursuant to sections 455.010 to 455.085, if the petitioner is
 32 present, whether permanently or on a temporary basis within the state of Missouri and if the
 33 respondent's actions constituting domestic violence have occurred, have been attempted or have
 34 been or are threatened within the state of Missouri. For purposes of this section, if the petitioner has
 35 been the subject of domestic violence within or outside of the state of Missouri, such evidence shall
 36 be admissible to demonstrate the need for protection in Missouri.

37 455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085
 38 and for good cause shown in the petition, the court may immediately issue an ex parte order of
 39 protection. An immediate and present danger of domestic violence to the petitioner or the child on
 40 whose behalf the petition is filed, or an immediate and present danger to a pet, shall constitute good
 41 cause for purposes of this section. An ex parte order of protection entered by the court shall take
 42 effect when entered and shall remain in effect until there is valid service of process and a hearing is
 43 held on the motion. The court shall deny the ex parte order and dismiss the petition if the petitioner
 44 is not authorized to seek relief pursuant to section 455.020.

45 2. Failure to serve an ex parte order of protection on the respondent shall not affect the
 46 validity or enforceability of such order. If the respondent is less than seventeen years of age, unless
 47 otherwise emancipated, service of process shall be made upon a custodial parent or guardian of the
 48 respondent, or upon a guardian ad litem appointed by the court, requiring that the person appear and
 49 bring the respondent before the court at the time and place stated.

3. If an ex parte order is entered and the respondent is less than seventeen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection. The court shall appoint a guardian ad litem for any such respondent not represented by a parent or guardian.";
and

Further amend said bill, Page 4, Section 455.040, Line 94, by inserting after said section and line the following:

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

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

(2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than the respondent; provided that the respondent has no property interest in the dwelling unit;

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

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

(5) A temporary order of possession of pets where appropriate.

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

(1) Temporarily enjoining the respondent from committing or threatening to commit domestic violence, molesting, stalking, sexual assault, or disturbing the peace of the petitioner, including violence against a pet;

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased, rented or occupied by petitioner individually; or

(c) Jointly owned, leased, rented or occupied by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit; or

(3) Temporarily enjoining the respondent from communicating with the petitioner in any manner or through any medium.

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

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

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and

1 the best interests of the child require such order be issued;

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

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

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

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

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

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

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

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

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

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

22 (12) Order the respondent to pay the cost of medical treatment and services that have been
23 provided or that are being provided to the petitioner as a result of injuries sustained to the petitioner
24 by an act of domestic violence committed by the respondent;

25 (13) Award possession and care of any pet, along with any moneys necessary to cover
26 medical costs that may have resulted from abuse of the pet.

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

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

38 6. The court shall grant to the noncustodial parent rights to visitation with any minor child
39 born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger
40 the child's physical health, impair the child's emotional development or would otherwise conflict
41 with the best interests of the child, or that no visitation can be arranged which would sufficiently
42 protect the custodial parent from further domestic violence. The court may appoint a guardian ad
43 litem or court-appointed special advocate to represent the minor child in accordance with chapter
44 452 whenever the custodial parent alleges that visitation with the noncustodial parent will damage
45 the minor child.

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

1 8. The court may grant a maintenance order to a party for a period of time, not to exceed
2 one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter
3 452.

4 9. (1) The court may, in order to ensure that a petitioner can maintain an existing wireless
5 telephone number or numbers, issue an order, after notice and an opportunity to be heard, directing a
6 wireless service provider to transfer the billing responsibility for and rights to the wireless telephone
7 number or numbers to the petitioner, if the petitioner is not the wireless service accountholder.

8 (2) (a) The order transferring billing responsibility for and rights to the wireless telephone
9 number or numbers to the petitioner shall list the name and billing telephone number of the
10 accountholder, the name and contact information of the person to whom the telephone number or
11 numbers will be transferred, and each telephone number to be transferred to that person. The court
12 shall ensure that the contact information of the petitioner is not provided to the accountholder in
13 proceedings held under this chapter.

14 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either
15 electronically or by certified mail, to the wireless service provider's registered agent listed with the
16 secretary of state, or electronically to the email address provided by the wireless service provider.
17 Such transmittal shall constitute adequate notice for the wireless service provider acting under this
18 section and section 455.523.

19 (c) If the wireless service provider cannot operationally or technically effectuate the order
20 due to certain circumstances, the wireless service provider shall notify the petitioner within three
21 business days. Such circumstances shall include, but not be limited to, the following:

22 a. The accountholder has already terminated the account;

23 b. The differences in network technology prevent the functionality of a device on the
24 network; or

25 c. There are geographic or other limitations on network or service availability.

26 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone number
27 or numbers to the petitioner under this subsection by a wireless service provider, the petitioner shall
28 assume all financial responsibility for the transferred wireless telephone number or numbers,
29 monthly service costs, and costs for any mobile device associated with the wireless telephone
30 number or numbers.

31 (b) This section shall not preclude a wireless service provider from applying any routine and
32 customary requirements for account establishment to the petitioner as part of this transfer of billing
33 responsibility for a wireless telephone number or numbers and any devices attached to that number
34 or numbers including, but not limited to, identification, financial information, and customer
35 preferences.

36 (4) This section shall not affect the ability of the court to apportion the assets and debts of
37 the parties as provided for in law, or the ability to determine the temporary use, possession, and
38 control of personal property.

39 (5) No cause of action shall lie against any wireless service provider, its officers, employees,
40 or agents, for actions taken in accordance with the terms of a court order issued under this section.

41 (6) As used in this section and section 455.523, a "wireless service provider" means a
42 provider of commercial mobile service under Section 332(d) of the Federal Telecommunications
43 Act of 1996 (47 U.S.C. Section 151, et seq.).

44 455.513. 1. The court may immediately issue an ex parte order of protection upon the filing
45 of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and
46 upon finding that:

47 (1) No prior order regarding custody involving the respondent and the child is pending or
48 has been made; or

49 (2) The respondent is less than seventeen years of age.

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2 An immediate and present danger of domestic violence, including danger to the child's pet, stalking,
3 or sexual assault to a child shall constitute good cause for purposes of this section. An ex parte
4 order of protection entered by the court shall be in effect until the time of the hearing. The court
5 shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief
6 pursuant to section 455.505.

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

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

14 4. If the allegations in the petition would give rise to jurisdiction under section 211.031
15 because the respondent is less than seventeen years of age, the court may issue an ex parte order and
16 shall transfer the case to juvenile court for a hearing on a full order of protection. Service of process
17 shall be made pursuant to section 455.035.

18 455.520. 1. Any ex parte order of protection granted under sections 455.500 to 455.538
19 shall be to protect the victim from domestic violence, including danger to the child's pet, stalking, or
20 sexual assault and may include such terms as the court reasonably deems necessary to ensure the
21 victim's safety, including but not limited to:

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

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

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

28 (4) A temporary order of custody of minor children;

29 (5) A temporary order of possession of pets where appropriate.

30 2. No ex parte order of protection excluding the respondent from the family home shall be
31 issued unless the court finds that:

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

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

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

37 455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall be
38 to protect the victim from domestic violence, including danger to the child's pet, stalking, and sexual
39 assault may include such terms as the court reasonably deems necessary to ensure the petitioner's
40 safety, including but not limited to:

41 (1) Temporarily enjoining the respondent from committing domestic violence or sexual
42 assault, threatening to commit domestic violence or sexual assault, stalking, molesting, or disturbing
43 the peace of the victim;

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

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

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

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

4 (2) Award visitation;

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

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

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

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

13 (7) Order the respondent to pay, to the extent that he or she is able, the costs of his or her
14 treatment, together with the treatment costs incurred by the victim;

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

17 (9) Order a wireless service provider, in accordance with the process, provisions, and
18 requirements set out in subdivisions (1) to (6) of subsection 9 of section 455.050, to transfer the
19 billing responsibility for and rights to the wireless telephone number or numbers of any minor
20 children in the petitioner's care to the petitioner, if the petitioner is not the wireless service
21 accountholder;

22 (10) Award possession and care of any pet, along with any moneys necessary to cover
23 medical costs that may have resulted from abuse of the pet." and
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25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.