

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 744
101ST GENERAL ASSEMBLY

1692H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 455.040, RSMo, and to enact in lieu thereof one new section relating to orders of protection.

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

Section A. Section 455.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 455.040, to read as follows:

455.040. 1. **(1)** Not later than fifteen days after the filing of a petition that meets the requirements of section 455.020, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of domestic violence, stalking, or sexual assault by a preponderance of the evidence, and the respondent cannot show that his or her actions alleged to constitute abuse were otherwise justified under the law, the court shall issue a full order of protection for a period of time the court deems appropriate, **and unless after an evidentiary hearing the court makes specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, [except that]** the protective order shall be valid for at least one hundred eighty days and not more than one year. **If, after an evidentiary hearing, the court makes specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, the protective order shall be valid for at least two years and not more than ten years.**

(2) Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed **annually and** for a period of time the court deems appropriate, **and unless the court at an evidentiary hearing made specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **a minor household member of the petitioner, [except that] the renewed protective order may**
20 **be renewed periodically and** shall be valid for at least one hundred eighty days and not more
21 than one year from the expiration date of the ~~[originally]~~ **previously** issued full order of
22 protection. **If the court has made specific written findings that the respondent poses a**
23 **serious danger to the physical or mental health of the petitioner or of a minor household**
24 **member of the petitioner, the renewed protective order may be renewed periodically and**
25 **shall be valid for at least two years and up to the life of the respondent.**

26 (3) The court may, upon finding that it is in the best interest of the parties, include a
27 provision that any full order of protection ~~[for one year]~~ shall **be** automatically ~~[renew]~~ **renewed**
28 **for any term of renewal of a full order of protection as set forth in this section** unless the
29 respondent requests a hearing by thirty days prior to the expiration of the order. If for good cause
30 a hearing cannot be held on the motion to renew or the objection to an automatic renewal of the
31 full order of protection prior to the expiration date of the originally issued full order of
32 protection, an ex parte order of protection may be issued until a hearing is held on the motion.
33 When an automatic renewal is not authorized, upon motion by the petitioner, and after a hearing
34 by the court, the second full order of protection may be renewed for an additional period of time
35 the court deems appropriate, except that the protective order shall be valid for ~~[at least one~~
36 ~~hundred eighty days and not more than one year]~~ **any term of renewal of a full order as set**
37 **forth in this section.** For purposes of this subsection, a finding by the court of a subsequent act
38 of domestic violence, stalking, or sexual assault is not required for a renewal order of protection.

39 (4) **In determining under this section whether a respondent poses a serious danger**
40 **to the physical or mental health of a petitioner or of a minor household member of the**
41 **petitioner, the court shall consider all relevant evidence including, but not limited to:**

42 (a) **The weight of the evidence;**

43 (b) **The respondent's history of inflicting or causing physical harm, bodily injury,**
44 **or assault;**

45 (c) **The respondent's history of stalking or causing fear of physical harm, bodily**
46 **injury, or assault on the petitioner or a minor household member of the petitioner;**

47 (d) **The respondent's criminal record;**

48 (e) **Whether any prior full orders of adult or child protection have been issued**
49 **against the respondent;**

50 (f) **Whether the respondent has been found guilty of any dangerous felony under**
51 **Missouri law; and**

52 (g) **Whether the respondent violated any term or terms of probation or parole or**
53 **violated any term of a prior full or temporary order of protection and which violated terms**
54 **were intended to protect the petitioner or a minor household member of the petitioner.**

55 **(5) If a court finds that a respondent poses a serious risk to the physical or mental**
56 **health of the petitioner or of a minor household member of the petitioner, the court shall**
57 **not modify such order until a period of at least two years from the date the original full**
58 **order was issued and only after the court makes specific written findings after a hearing**
59 **held that the respondent has shown proof of treatment and rehabilitation and that the**
60 **respondent no longer poses a serious danger to the petitioner or to a minor household**
61 **member of the petitioner.**

62 2. The court shall cause a copy of the petition and notice of the date set for the hearing
63 on such petition and any ex parte order of protection to be served upon the respondent as
64 provided by law or by any sheriff or police officer at least three days prior to such hearing. The
65 court shall cause a copy of any full order of protection to be served upon or mailed by certified
66 mail to the respondent at the respondent's last known address. Notice of an ex parte or full order
67 of protection shall be served at the earliest time, and service of such notice shall take priority
68 over service in other actions, except those of a similar emergency nature. Failure to serve or mail
69 a copy of the full order of protection to the respondent shall not affect the validity or
70 enforceability of a full order of protection.

71 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085
72 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where
73 the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
74 enforcement agency responsible for maintaining the Missouri uniform law enforcement system
75 or any other comparable law enforcement system the same day the order is granted. The law
76 enforcement agency responsible for maintaining MULES shall, for purposes of verification,
77 within twenty-four hours from the time the order is granted, enter information contained in the
78 order including but not limited to any orders regarding child custody or visitation and all
79 specifics as to times and dates of custody or visitation that are provided in the order. A notice
80 of expiration or of termination of any order of protection or any change in child custody or
81 visitation within that order shall be issued to the local law enforcement agency and to the law
82 enforcement agency responsible for maintaining MULES or any other comparable law
83 enforcement system. The law enforcement agency responsible for maintaining the applicable
84 law enforcement system shall enter such information in the system within twenty-four hours of
85 receipt of information evidencing such expiration or termination. The information contained in
86 an order of protection may be entered in the Missouri uniform law enforcement system or
87 comparable law enforcement system using a direct automated data transfer from the court
88 automated system to the law enforcement system.

89 4. The court shall cause a copy of any objection filed by the respondent and notice of the
90 date set for the hearing on such objection to an automatic renewal of a full order of protection

91 for a period of one year to be personally served upon the petitioner by personal process server
92 as provided by law or by a sheriff or police officer at least three days prior to such hearing. Such
93 service of process shall be served at the earliest time and shall take priority over service in other
94 actions except those of a similar emergency nature.

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