

SECOND REGULAR SESSION

HOUSE BILL NO. 2458

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOLAN.

6120H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 455.010, 455.035, and 455.513, RSMo, and to enact in lieu thereof three new sections relating to orders of protection.

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

Section A. Sections 455.010, 455.035, and 455.513, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 455.010, 455.035, and 455.513, to read as follows:

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

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

(a) "Abusing a pet", purposely or knowingly causing, attempting to cause, or threatening to cause physical injury to a pet with the intent to control, punish, intimidate, or distress the petitioner;

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

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

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

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.

- 17 (e) "Harassment", engaging in a purposeful or knowing course of conduct involving
18 more than one incident that alarms or causes distress to an adult or child and serves no
19 legitimate purpose. The course of conduct must be such as would cause a reasonable adult or
20 child to suffer substantial emotional distress and must actually cause substantial emotional
21 distress to the petitioner or child. 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
24 include constitutionally protected activity;
- 25 (f) "Sexual assault", causing or attempting to cause another to engage involuntarily in
26 any sexual act by force, threat of force, duress, or without that person's consent;
- 27 (g) "Unlawful imprisonment", holding, confining, detaining or abducting another
28 person against that person's will;
- 29 (2) "Adult", any person ~~[seventeen]~~ **eighteen** years of age or older or otherwise
30 emancipated;
- 31 (3) "Child", any person under ~~[seventeen]~~ **eighteen** years of age unless otherwise
32 emancipated;
- 33 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
- 34 (5) "Domestic violence", abuse or stalking committed by a family or household
35 member, as such terms are defined in this section;
- 36 (6) "Ex parte order of protection", an order of protection issued by the court before
37 the respondent has received notice of the petition or an opportunity to be heard on it;
- 38 (7) "Family" or "household member", spouses, former spouses, any person related by
39 blood or marriage, persons who are presently residing together or have resided together in the
40 past, any person who is or has been in a continuing social relationship of a romantic or
41 intimate nature with the victim, and anyone who has a child in common regardless of whether
42 they have been married or have resided together at any time;
- 43 (8) "Full order of protection", an order of protection issued after a hearing on the
44 record where the respondent has received notice of the proceedings and has had an
45 opportunity to be heard;
- 46 (9) "Order of protection", either an ex parte order of protection or a full order of
47 protection;
- 48 (10) "Pending", exists or for which a hearing date has been set;
- 49 (11) "Pet", a living creature maintained by a household member for companionship
50 and not for commercial purposes;
- 51 (12) "Petitioner", a family or household member who has been a victim of domestic
52 violence, or any person who has been the victim of stalking or sexual assault, or a person

53 filing on behalf of a child pursuant to section 455.503 who has filed a verified petition
54 pursuant to the provisions of section 455.020 or section 455.505;

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

59 (14) "Sexual assault", as defined under subdivision (1) of this section;

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

64 (a) "Alarm", to cause fear of danger of physical harm; and

65 (b) "Course of conduct", two or more acts that serve no legitimate purpose including,
66 but not limited to, acts in which the stalker directly, indirectly, or through a third party
67 follows, monitors, observes, surveils, threatens, or communicates to a person by any action,
68 method, or device.

455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to
2 455.085 and for good cause shown in the petition, the court may immediately issue an ex
3 parte order of protection. An immediate and present danger of domestic violence to the
4 petitioner or the child on whose behalf the petition is filed shall constitute good cause for
5 purposes of this section. An ex parte order of protection entered by the court shall take effect
6 when entered and shall remain in effect until there is valid service of process and a hearing is
7 held on the motion. The court shall deny the ex parte order and dismiss the petition if the
8 petitioner is not authorized to seek relief pursuant to section 455.020.

9 2. Failure to serve an ex parte order of protection on the respondent shall not affect
10 the validity or enforceability of such order. If the respondent is less than ~~[seventeen]~~ **eighteen**
11 years of age, unless otherwise emancipated, service of process shall be made upon a custodial
12 parent or guardian of the respondent, or upon a guardian ad litem appointed by the court,
13 requiring that the person appear and bring the respondent before the court at the time and
14 place stated.

15 3. If an ex parte order is entered and the respondent is less than ~~[seventeen]~~ **eighteen**
16 years of age, the court shall transfer the case to juvenile court for a hearing on a full order of
17 protection. The court shall appoint a guardian ad litem for any such respondent not
18 represented by a parent or guardian.

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

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

6 (2) The respondent is less than ~~[seventeen]~~ **eighteen** years of age.

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8 An immediate and present danger of domestic violence, including danger to the child's pet,
9 stalking, or sexual assault to a child shall constitute good cause for purposes of this section.

10 An ex parte order of protection entered by the court shall be in effect until the time of the
11 hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not
12 authorized to seek relief pursuant to section 455.505.

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

16 3. If the allegations in the petition would give rise to jurisdiction under section
17 211.031, the court may direct the children's division to conduct an investigation and to
18 provide appropriate services. The division shall submit a written investigative report to the
19 court and to the juvenile officer within thirty days of being ordered to do so. The report shall
20 be made available to the parties and the guardian ad litem or court-appointed special
21 advocate.

22 4. If the allegations in the petition would give rise to jurisdiction under section
23 211.031 because the respondent is less than ~~[seventeen]~~ **eighteen** years of age, the court may
24 issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order
25 of protection. Service of process shall be made pursuant to section 455.035.

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