

SECOND REGULAR SESSION

HOUSE BILL NO. 1972

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CRAWFORD.

5523H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 455.050 and 455.523, RSMo, and to enact in lieu thereof two new sections relating to orders of protection.

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

Section A. Sections 455.050 and 455.523, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 455.050 and 455.523, to read as follows:

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;

(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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 **9. (1) The court may, in order to ensure that a petitioner can maintain an existing**
76 **wireless telephone number or numbers, issue an order, after notice and an opportunity to**
77 **be heard, directing a wireless service provider to transfer the billing responsibility for and**
78 **rights to the wireless telephone number or numbers to the petitioner, if the petitioner is not**
79 **the wireless service accountholder.**

80 **(2) (a) The order transferring billing responsibility for and rights to the wireless**
81 **telephone number or numbers to the petitioner shall list the name and billing telephone**
82 **number of the accountholder, the name and contact information of the person to whom the**
83 **telephone number or numbers will be transferred, and each telephone number to be**
84 **transferred to that person. The court shall ensure that the contact information of the**
85 **petitioner is not provided to the accountholder in proceedings held under this chapter.**

86 **(b) The order shall be served on the wireless service provider's agent for service of**
87 **process listed with the secretary of state.**

88 **(c) If the wireless service provider cannot operationally or technically effectuate the**
89 **order due to certain circumstances, the wireless service provider shall notify the petitioner**

90 **within seventy-two hours. Such circumstances shall include, but not be limited to, the**
91 **following:**

92 **a. The accountholder has already terminated the account;**

93 **b. The differences in network technology prevent the functionality of a device on**
94 **the network; or**

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

96 **(3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone**
97 **number or numbers to the petitioner under paragraph (b) of this subdivision by a wireless**
98 **service provider, the petitioner shall assume all financial responsibility for the transferred**
99 **wireless telephone number or numbers, monthly service costs, and costs for any mobile**
100 **device associated with the wireless telephone number or numbers.**

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

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

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

112 **(6) As used in this section, a "wireless service provider" means a provider of**
113 **commercial mobile service under Section 332(d) of the Federal Telecommunications Act**
114 **of 1996 (47 U.S.C. Section 151 et seq).**

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

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

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

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

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

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

17 (2) Award visitation;

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

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

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

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

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

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

31 **(9) Order a wireless service provider, in accordance with the process, provisions,**
32 **and requirements set out in subdivisions (1) to (6) of subsection 9 of section 455.050, to**
33 **transfer the billing responsibility for and rights to the wireless telephone number or**
34 **numbers of any minor children in the petitioner's care to the petitioner, if the petitioner**
35 **is not the wireless service account holder.**

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