

SECOND REGULAR SESSION

# SENATE BILL NO. 959

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Read 1st time January 30, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5106S.011

## AN ACT

To repeal sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, RSMo, and to enact in lieu thereof eight new sections relating to pet protective orders.

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

Section A. Sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513, 455.520, and 455.523, to read as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) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

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

(c) "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;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or

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

17 child and serves no legitimate purpose. The course of conduct must be such as  
18 would cause a reasonable adult or child to suffer substantial emotional distress  
19 and must actually cause substantial emotional distress to the petitioner or  
20 child. Such conduct 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, 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  
36 household member, as such terms are defined in this section;

37 (6) "Ex parte order of protection", an order of protection issued by the  
38 court before the respondent has received notice of the petition or an opportunity  
39 to be 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  
44 has a child in common regardless of whether they have been married or have  
45 resided together at any time;

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

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

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

52 (11) **"Pet", a living creature maintained by a household member**

53 **for companionship and not for commercial purposes;**

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

59 [(12)] (13) "Respondent", the family or household member alleged to have  
60 committed an act of domestic violence, or person alleged to have committed an act  
61 of stalking or sexual assault, against whom a verified petition has been filed or  
62 a person served on behalf of a child pursuant to section 455.503;

63 [(13)] (14) "Sexual assault", as defined under subdivision (1) of this  
64 section;

65 [(14)] (15) "Stalking" is when any person purposely engages in an  
66 unwanted course of conduct that causes alarm to another person, or a person who  
67 resides together in the same household with the person seeking the order of  
68 protection when it is reasonable in that person's situation to have been alarmed  
69 by the conduct. As used in this subdivision:

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

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

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

455.035. 1. Upon the filing of a verified petition pursuant to sections  
2 455.010 to 455.085 and for good cause shown in the petition, the court may  
3 immediately issue an ex parte order of protection. An immediate and present

4 danger of domestic violence to the petitioner or the child on whose behalf the  
5 petition is filed, **or an immediate and present danger to a pet**, shall  
6 constitute good cause for purposes of this section. An ex parte order of protection  
7 entered by the court shall take effect when entered and shall remain in effect  
8 until there is valid service of process and a hearing is held on the motion. The  
9 court shall deny the ex parte order and dismiss the petition if the petitioner is  
10 not authorized to seek relief pursuant to section 455.020.

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

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

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,  
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  
6 the 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  
18 in any manner or through any medium;

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

20           **(5) A temporary order of custody of pets 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  
3 violence, stalking, or sexual assault and may include such terms as the court  
4 reasonably deems necessary to ensure the petitioner's safety, including but not  
5 limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

35           (5) Order respondent to make or to continue to make rent or mortgage

36 payments on a residence occupied by the petitioner if the respondent is found to  
37 have a duty to support the petitioner or other dependent household members;

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

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

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

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

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

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

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

57 **(13) Award custody and care of any pet, along with any moneys**  
58 **necessary to cover medical costs that may have resulted from abuse of**  
59 **the pet.**

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

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

72 with chapter 452.

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

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

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

90           9. (1) The court may, in order to ensure that a petitioner can maintain  
91 an existing wireless telephone number or numbers, issue an order, after notice  
92 and an opportunity to be heard, directing a wireless service provider to transfer  
93 the billing responsibility for and rights to the wireless telephone number or  
94 numbers to the petitioner, if the petitioner is not the wireless service  
95 accountholder.

96           (2) (a) The order transferring billing responsibility for and rights to the  
97 wireless telephone number or numbers to the petitioner shall list the name and  
98 billing telephone number of the accountholder, the name and contact information  
99 of the person to whom the telephone number or numbers will be transferred, and  
100 each telephone number to be transferred to that person. The court shall ensure  
101 that the contact information of the petitioner is not provided to the accountholder  
102 in proceedings held under this chapter.

103           (b) Upon issuance, a copy of the full order of protection shall be  
104 transmitted, either electronically or by certified mail, to the wireless service  
105 provider's registered agent listed with the secretary of state, or electronically to  
106 the email address provided by the wireless service provider. Such transmittal  
107 shall constitute adequate notice for the wireless service provider acting under this

108 section and section 455.523.

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

113 a. The accountholder has already terminated the account;

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

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

118 (3) (a) Upon transfer of billing responsibility for and rights to a wireless  
119 telephone number or numbers to the petitioner under this subsection by a  
120 wireless service provider, the petitioner shall assume all financial responsibility  
121 for the transferred wireless telephone number or numbers, monthly service costs,  
122 and costs for any mobile device associated with the wireless telephone number or  
123 numbers.

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

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

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

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

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

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

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

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

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

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

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

455.520. 1. Any ex parte order of protection granted under sections  
2 455.500 to 455.538 shall be to protect the victim from domestic violence,  
3 **including danger to the child's pet**, stalking, or sexual assault and may  
4 include such terms as the court reasonably deems necessary to ensure the victim's  
5 safety, including but not limited to:

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

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

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

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

14 **(5) A temporary order of custody of pets where appropriate.**

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

16 family home shall be issued unless the court finds that:

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

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

21 (3) A remaining adult family or household member is able to care  
22 adequately 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  
2 to 455.538 shall be to protect the victim from domestic violence, **including**  
3 **danger to the child's pet**, stalking, and sexual assault may include such terms  
4 as the court reasonably deems necessary to ensure the petitioner's safety,  
5 including but not limited to:

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

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

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

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

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

20 (2) Award visitation;

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

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

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

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

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

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

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

41 **(10) Award custody and care of any pet, along with any moneys**  
42 **necessary to cover medical costs that may have resulted from abuse of**  
43 **the pet.**

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