

HOUSE BILL NO. 504

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SILVEY (Sponsor), KELLY (24), TALBOY, SCHUPP, PETERS-BAKER, COLONA, CARTER, JONES (63), LAMPE, TILLEY, JONES (89), SOLON, LICHTENEGGER, BRANDOM, NEWMAN, STILL, McNEIL, SPRENG, KIRKTON, WEBBER, BLACK, McMANUS, CARLSON, OXFORD, RIZZO, MAY, FRANKLIN, RICHARDSON, FREDERICK, FAITH, HOSKINS, SWEARINGEN, ELMER, HOUGH, HINSON, BROWN (50), BURLISON AND SCHNEIDER (Co-sponsors).

1479L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 211.031, 455.027, 455.035, 455.040, 455.050, 455.060, 455.085, 455.513, 455.516, 455.520, 455.523, 455.538, and 565.074, RSMo, and to enact in lieu thereof thirteen new sections relating to domestic violence, with penalty provisions.

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

Section A. Sections 211.031, 455.027, 455.035, 455.040, 455.050, 455.060, 455.085, 2 455.513, 455.516, 455.520, 455.523, 455.538, and 565.074, RSMo, are repealed and thirteen 3 new sections enacted in lieu thereof, to be known as sections 211.031, 455.027, 455.035, 4 455.040, 455.050, 455.060, 455.085, 455.513, 455.516, 455.520, 455.523, 455.538, and 565.074, 5 to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family 2 court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have 3 exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or 5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child 7 or person seventeen years of age, neglect or refuse to provide proper support, education which 8 is required by law, medical, surgical or other care necessary for his or her well-being; except that 9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or

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.

10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody
13 or support; or

14 (c) The child or person seventeen years of age was living in a room, building or other
15 structure at the time such dwelling was found by a court of competent jurisdiction to be a public
16 nuisance pursuant to section 195.130;

17 (d) The child or person seventeen years of age is a child in need of mental health services
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who is
21 alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without
23 justification absent from school; or

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other
25 custodian and is beyond their control; or

26 (c) The child is habitually absent from his or her home without sufficient cause,
27 permission, or justification; or

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
33 ordinance or regulation, the violation of which does not constitute a felony, or any child who is
34 alleged to have violated a state or municipal ordinance or regulation prohibiting possession or
35 use of any tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall

45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship
49 of the department of social services as provided by law; **and**

50 **(6) Involving an order of protection under chapter 455 when the respondent is less**
51 **than seventeen years of age.**

52 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person
53 seventeen years of age who resides in a county of this state shall be made as follows:

54 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
55 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
56 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
57 court, to the county of the child's residence or the residence of the person seventeen years of age
58 for future action;

59 (2) Upon the motion of any party or on its own motion prior to final disposition on the
60 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
61 a child or person seventeen years of age to the court located in the county of the child's residence
62 or the residence of the person seventeen years of age, or the county in which the offense pursuant
63 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

64 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
65 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
66 of a child or person seventeen years of age to the court located in the county of the child's
67 residence or the residence of the person seventeen years of age for further action with the prior
68 consent of the receiving court;

69 (4) Upon motion of any party or upon its own motion at any time following a judgment
70 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
71 may place the child or person seventeen years of age under the supervision of another juvenile
72 court within or without the state pursuant to section 210.570 with the consent of the receiving
73 court;

74 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
75 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court
76 Rules;

77 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or
78 person seventeen years of age, certified copies of all legal and social documents and records
79 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the
80 transfer.

81 3. In any proceeding involving any child or person seventeen years of age taken into
82 custody in a county other than the county of the child's residence or the residence of a person
83 seventeen years of age, the juvenile court of the county of the child's residence or the residence
84 of a person seventeen years of age shall be notified of such taking into custody within
85 seventy-two hours.

86 4. When an investigation by a juvenile officer pursuant to this section reveals that the
87 only basis for action involves an alleged violation of section 167.031 involving a child who
88 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child
89 to verify that the child is being home schooled and not in violation of section 167.031 before
90 making a report of such a violation. Any report of a violation of section 167.031 made by a
91 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting
92 attorney of the county where the child legally resides.

 455.027. No filing fees, court costs, or bond shall be assessed to the petitioner in an
2 action commenced pursuant to sections 455.010 to [455.085] **455.090**.

 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 parte
3 order of protection. An immediate and present danger of abuse to the petitioner shall constitute
4 good cause for purposes of this section. An ex parte order of protection entered by the court
5 shall take effect when entered and shall remain in effect until there is valid service of process and
6 a hearing is held on the motion.

7 2. Failure to serve an ex parte order of protection on the respondent shall not affect the
8 validity or enforceability of such order.

9 **3. If an ex parte order is entered and the allegations in the petition would give rise**
10 **to jurisdiction under section 211.031 because the respondent is less than seventeen years**
11 **of age, the court shall transfer the case to juvenile court for a hearing on a full order of**
12 **protection.**

 455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections
2 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that
3 a continuance should be granted. At the hearing, if the petitioner has proved the allegation of
4 abuse or stalking by a preponderance of the evidence, the court shall issue a full order of
5 protection for a period of time the court deems appropriate, except that the protective order shall
6 be valid for at least one hundred eighty days and not more than one year. Upon motion by the
7 petitioner, and after a hearing by the court, the full order of protection may be renewed for a
8 period of time the court deems appropriate, except that the protective order shall be valid for at
9 least one hundred eighty days and not more than one year from the expiration date of the
10 originally issued full order of protection. **The court may, upon finding that it is in the best**

11 **interest of the parties, include a provision that any full order of protection for one year**
12 **shall automatically renew unless the respondent requests a hearing within thirty days of**
13 **the expiration of the order.** If for good cause a hearing cannot be held on the motion to renew
14 **or the objection to an automatic renewal of** the full order of protection prior to the expiration
15 date of the originally issued full order of protection, an ex parte order of protection may be issued
16 until a hearing is held on the motion. **When an automatic renewal is not authorized,** upon
17 motion by the petitioner, and after a hearing by the court, the second full order of protection may
18 be renewed for an additional period of time the court deems appropriate, except that the
19 protective order shall be valid for at least one hundred eighty days and not more than one year.
20 For purposes of this subsection, a finding by the court of a subsequent act of abuse is not
21 required for a renewal order of protection.

22 2. The court shall cause a copy of the petition and notice of the date set for the hearing
23 on such petition and any ex parte order of protection to be served upon the respondent as
24 provided by law or by any sheriff or police officer at least three days prior to such hearing. Such
25 notice shall be served at the earliest time, and service of such notice shall take priority over
26 service in other actions, except those of a similar emergency nature. The court shall cause a copy
27 of any full order of protection to be served upon or mailed by certified mail to the respondent at
28 the respondent's last known address. Failure to serve or mail a copy of the full order of
29 protection to the respondent shall not affect the validity or enforceability of a full order of
30 protection.

31 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085
32 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where
33 the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
34 enforcement agency responsible for maintaining the Missouri uniform law enforcement system
35 or any other comparable law enforcement system the same day the order is granted. The law
36 enforcement agency responsible for maintaining MULES shall enter information contained in
37 the order for purposes of verification within twenty-four hours from the time the order is granted.
38 A notice of expiration or of termination of any order of protection shall be issued to the local law
39 enforcement agency and to the law enforcement agency responsible for maintaining MULES or
40 any other comparable law enforcement system. The law enforcement agency responsible for
41 maintaining the applicable law enforcement system shall enter such information in the system.
42 The information contained in an order of protection may be entered in the Missouri uniform law
43 enforcement system or comparable law enforcement system using a direct automated data
44 transfer from the court automated system to the law enforcement system.

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

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

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

5 (1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting,
6 stalking or disturbing the peace of the petitioner;

7 (2) Temporarily enjoining the respondent from entering the premises of the dwelling unit
8 of the 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, rented or occupied by petitioner and a person other than
12 respondent; provided, however, no spouse shall be denied relief pursuant to this section by
13 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 respondent; provided that
15 the respondent has no property interest in the dwelling unit; or

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

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 abuse. The court may appoint a
65 guardian ad litem or court-appointed special advocate to represent the minor child in accordance
66 with chapter 452 whenever the custodial parent alleges that visitation with the noncustodial
67 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.

 455.060. 1. After notice and hearing, the court may modify an order of protection at any
2 time, upon subsequent motion filed by the guardian ad litem, the court-appointed special
3 advocate or by either party together with an affidavit showing a change in circumstances
4 sufficient to warrant the modification. All full orders of protection shall be final orders and
5 appealable and shall be for a fixed period of time as provided in section 455.040.

6 2. Any order for child support, custody, temporary custody, visitation or maintenance
7 entered under sections 455.010 to 455.085 shall terminate prior to the time fixed in the order
8 upon the issuance of a subsequent order pursuant to chapter 452 or any other Missouri statute.

9 3. No order entered pursuant to sections 455.010 to 455.085 shall be res judicata to any
10 subsequent proceeding, including, but not limited to, any action brought under chapter 452,
11 RSMo, 1978 as amended.

12 4. All provisions of an order of protection shall terminate upon entry of a decree of
13 dissolution of marriage or legal separation except as to those provisions which require the
14 respondent to participate in a court-approved counseling program or enjoin the respondent from
15 abusing, molesting, stalking or disturbing the peace of the petitioner and which enjoin the
16 respondent from entering the premises of the dwelling unit of the petitioner as described in the
17 order of protection when the petitioner continues to reside in that dwelling unit unless the
18 respondent is awarded possession of the dwelling unit pursuant to a decree of dissolution of
19 marriage or legal separation.

20 5. Any order of protection or order for child support, custody, temporary custody,
21 visitation or maintenance entered under sections 455.010 to 455.085 shall terminate upon the
22 [filing of] **order of the court granting** a motion to terminate the order of protection by the
23 petitioner[; except that, in cases where the order grants custody of a minor child to the
24 respondent, the order shall terminate only upon consent of both parties or upon the respondent's
25 failure to object within ten days of receiving the petitioner's notice of the filing of the motion to
26 dismiss. If the respondent timely objects to the dismissal,]. The court shall set the motion to
27 dismiss for hearing and both parties shall have an opportunity to be heard. **Prior to terminating**
28 **any order of protection, the court may examine the circumstances of the motion to dismiss**

29 **and may inquire of the petitioner or other persons in order to assist the court in**
30 **determining if dismissal is voluntary.**

31 6. The order of protection may not change the custody of children when an action for
32 dissolution of marriage has been filed or the custody has previously been awarded by a court of
33 competent jurisdiction.

455.085. 1. When a law enforcement officer has probable cause to believe a party has
2 committed a violation of law amounting to abuse or assault, as defined in section 455.010,
3 against a family or household member, the officer may arrest the offending party whether or not
4 the violation occurred in the presence of the arresting officer. When the officer declines to make
5 arrest pursuant to this subsection, the officer shall make a written report of the incident
6 completely describing the offending party, giving the victim's name, time, address, reason why
7 no arrest was made and any other pertinent information. Any law enforcement officer
8 subsequently called to the same address within a twelve-hour period, who shall find probable
9 cause to believe the same offender has again committed a violation as stated in this subsection
10 against the same or any other family or household member, shall arrest the offending party for
11 this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period
12 may be considered as evidence of the defendant's intent in the violation for which arrest
13 occurred. The refusal of the victim to sign an official complaint against the violator shall not
14 prevent an arrest under this subsection.

15 2. When a law enforcement officer has probable cause to believe that a party, against
16 whom a protective order has been entered and who has notice of such order entered, has
17 committed an act of abuse in violation of such order, the officer shall arrest the offending
18 party-respondent whether or not the violation occurred in the presence of the arresting officer.
19 Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest
20 under this subsection.

21 3. When an officer makes an arrest he is not required to arrest two parties involved in
22 an assault when both parties claim to have been assaulted. The arresting officer shall attempt to
23 identify and shall arrest the party he believes is the primary physical aggressor. The term
24 "primary physical aggressor" is defined as the most significant, rather than the first, aggressor.
25 The law enforcement officer shall consider any or all of the following in determining the primary
26 physical aggressor:

27 (1) The intent of the law to protect victims of domestic violence from continuing abuse;

28 (2) The comparative extent of injuries inflicted or serious threats creating fear of physical
29 injury;

30 (3) The history of domestic violence between the persons involved. No law enforcement
31 officer investigating an incident of family violence shall threaten the arrest of all parties for the

32 purpose of discouraging requests or law enforcement intervention by any party. Where
33 complaints are received from two or more opposing parties, the officer shall evaluate each
34 complaint separately to determine whether he should seek a warrant for an arrest.

35 4. In an arrest in which a law enforcement officer acted in good faith reliance on this
36 section, the arresting and assisting law enforcement officers and their employing entities and
37 superiors shall be immune from liability in any civil action alleging false arrest, false
38 imprisonment or malicious prosecution.

39 5. When a person against whom an order of protection has been entered fails to surrender
40 custody of minor children to the person to whom custody was awarded in an order of protection,
41 the law enforcement officer shall arrest the respondent, and shall turn the minor children over
42 to the care and custody of the party to whom such care and custody was awarded.

43 6. The same procedures, including those designed to protect constitutional rights, shall
44 be applied to the respondent as those applied to any individual detained in police custody.

45 7. A violation of the terms and conditions, with regard to abuse, stalking, child custody,
46 communication initiated by the respondent or entrance upon the premises of the petitioner's
47 dwelling unit **or place of employment or school, or being within a certain distance of**
48 **petitioner or a child of petitioner**, of an ex parte order of protection of which the respondent
49 has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty
50 to or has been found guilty **in state or municipal court** of violating an ex parte order of
51 protection or a full order of protection within five years of the date of the subsequent violation,
52 in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of
53 guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to
54 submission of the case to the jury. If the court finds the existence of such prior pleas of guilty
55 or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of
56 sentence or other disposition and shall not instruct the jury as to the range of punishment or allow
57 the jury to assess and declare the punishment as a part of its verdict.

58 8. A violation of the terms and conditions, with regard to abuse, stalking, child custody,
59 communication initiated by the respondent or entrance upon the premises of the petitioner's
60 dwelling unit **or place of employment or school, or being within a certain distance of**
61 **petitioner or a child of petitioner**, of a full order of protection shall be a class A misdemeanor,
62 unless the respondent has previously pleaded guilty to or has been found guilty **in state or**
63 **municipal court** of violating an ex parte order of protection or a full order of protection within
64 five years of the date of the subsequent violation, in which case the subsequent violation shall
65 be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the
66 court out of the presence of the jury prior to submission of the case to the jury. If the court finds
67 the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court

68 shall decide the extent or duration of the sentence or other disposition and shall not instruct the
69 jury as to the range of punishment or allow the jury to assess and declare the punishment as a part
70 of its verdict. For the purposes of this subsection, in addition to the notice provided by actual
71 service of the order, a party is deemed to have notice of an order of protection if the law
72 enforcement officer responding to a call of a reported incident of abuse or violation of an order
73 of protection presented a copy of the order of protection to the respondent.

74 9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed
75 tampering with a witness or victim tampering under section 575.270.

76 10. Nothing in this section shall be interpreted as creating a private cause of action for
77 damages to enforce the provisions set forth herein.

78 **11. If a respondent has previously violated an ex parte or full order of protection,**
79 **a municipal court shall transfer the case to circuit court.**

455.513. 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for
2 good cause shown in the petition, and upon finding that no prior order regarding custody is
3 pending or has been made, the court may immediately issue an ex parte order of protection. An
4 immediate and present danger of abuse to a child shall constitute good cause for purposes of this
5 section. An ex parte order of protection entered by the court shall be in effect until the time of
6 the hearing.

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,
10 the court may direct the division of family services to conduct an investigation and to provide
11 appropriate services. The division shall submit a written investigative report to the court and to
12 the juvenile officer within thirty days of being ordered to do so. The report shall be made
13 available to the parties and the guardian ad litem or court-appointed special advocate.

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

455.516. 1. Not later than fifteen days after the filing of a petition under sections
2 455.500 to 455.538, a hearing shall be held unless the court deems, for good cause shown, that
3 a continuance should be granted. At the hearing, which may be an open or a closed hearing at
4 the discretion of the court, whichever is in the best interest of the child, if the petitioner has
5 proved the allegation of abuse of a child by a preponderance of the evidence, the court may issue
6 a full order of protection for at least one hundred eighty days and not more than one year. The
7 court may allow as evidence any in camera videotape made of the testimony of the child pursuant

8 to section 491.699. The provisions of section 491.075 relating to admissibility of statements of
9 a child under the age of twelve shall apply to any hearing under the provisions of sections
10 455.500 to 455.538. Upon motion by either party, the guardian ad litem or the court- appointed
11 special advocate, and after a hearing by the court, the full order of protection may be renewed
12 for a period of time the court deems appropriate, except that the protective order shall be valid
13 for at least one hundred eighty days and not more than one year from the expiration date of the
14 originally issued full order of protection. **The court may, upon finding that it is in the best**
15 **interest of the child, include a provision that any full order of protection for one year shall**
16 **automatically renew unless the respondent requests a hearing within thirty days of the**
17 **expiration of the order.** If for good cause a hearing cannot be held on the motion to renew **or**
18 **to terminate the automatic renewal of** the full order of protection prior to the expiration date
19 of the originally issued full order of protection, an ex parte order of protection may be issued
20 until a hearing is held on the motion. **When an automatic renewal is not authorized,** upon
21 motion by either party, the guardian ad litem or the court appointed special advocate, and after
22 a hearing by the court, the second full order of protection may be renewed for an additional
23 period of time the court deems appropriate, except that the protective order shall be valid for at
24 least one hundred eighty days and not more than one year from the expiration date of the second
25 full order of protection. If for good cause a hearing cannot be held on the motion to renew the
26 second full order of protection prior to the expiration date of the second order, an ex parte order
27 of protection may be issued until a hearing is held on the motion. For purposes of this
28 subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order
29 of protection.

30 2. The court shall cause a copy of the petition and notice of the date set for the hearing
31 on such petition and any ex parte order of protection to be personally served upon the respondent
32 by personal process server as provided by law or by any sheriff or police officer at least three
33 days prior to such hearing. Such shall be served at the earliest time, and service of such shall
34 take priority over service in other actions, except those of a similar emergency nature. The court
35 shall cause a copy of any full order of protection to be served upon or mailed by certified mail
36 to the respondent at the respondent's last known address. Failure to serve or mail a copy of the
37 full order of protection to the respondent shall not affect the validity or enforceability of a full
38 order of protection.

39 3. A copy of any order of protection granted under sections 455.500 to 455.538 shall be
40 issued to the petitioner and to the local law enforcement agency in the jurisdiction where the
41 petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
42 enforcement agency responsible for maintaining the Missouri uniform law enforcement system
43 (MULES) or any other comparable law enforcement system the same day the order is granted.

44 The law enforcement agency responsible for maintaining MULES shall enter information
45 contained in the order for purposes of verification within twenty-four hours from the time the
46 order is granted. A notice of expiration or of termination of any order of protection shall be
47 issued to such local law enforcement agency and to the law enforcement agency responsible for
48 maintaining MULES or any other comparable law enforcement system. The law enforcement
49 agency responsible for maintaining the applicable law enforcement system shall enter such
50 information in the system. The information contained in an order of protection may be entered
51 in the Missouri uniform law enforcement system or comparable law enforcement system using
52 a direct automated data transfer from the court automated system to the law enforcement system.

53 4. A copy of the petition and notice of the date set for the hearing on such petition and
54 any order of protection granted pursuant to sections 455.500 to 455.538 shall be issued to the
55 juvenile office in the jurisdiction where the petitioner resides. A notice of expiration or of
56 termination of any order of protection shall be issued to such juvenile office.

57 **5. The court shall cause a copy of any objection filed by respondent and notice of**
58 **the date set for the hearing on such objection to an automatic renewal of a full order of**
59 **protection for a period of one year to be personally served upon the petitioner by personal**
60 **process server as provided by law or by any sheriff or police officer at least three days**
61 **prior to such hearing. Such service of process shall be at the earliest time and shall take**
62 **priority over service in other actions except those of similar emergency nature.**

455.520. 1. Any ex parte order of protection granted under sections 455.500 to 455.538
2 shall be to protect the victim from [abuse] **domestic violence** and may include **such terms as**
3 **the court reasonably deems necessary to ensure the petitioner's safety, including but not**
4 **limited to:**

5 (1) Restraining the respondent from abusing, threatening to abuse, molesting or
6 disturbing the peace of the victim;

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

9 (3) Restraining the respondent from having any contact with the victim, except as
10 specifically authorized by the court;

11 (4) A temporary order of custody of minor children.

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

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

15 (2) The verified allegations of abuse present a substantial risk to the child or children
16 unless the respondent is excluded;

17 (3) A remaining adult family or household member is able to care adequately for the
18 child or children in the absence of the excluded party; and

19 (4) A commitment has been obtained from the local division of family services office
20 to provide appropriate social services to the family or household members during the period of
21 time which an order of protection is in effect.

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

5 (1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting
6 or disturbing the peace of the victim;

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

9 (3) Temporarily enjoining the respondent from having any contact with the victim,
10 except as specifically authorized by the court.

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

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

16 (2) Award visitation;

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

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

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

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

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

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

455.538. 1. When a law enforcement officer has probable cause to believe that a party,
2 against whom a protective order for a child has been entered, has committed an act of abuse in

3 violation of that order, he shall have the authority to arrest the respondent whether or not the
4 violation occurred in the presence of the arresting officer.

5 2. When a person, against whom an order of protection for a child has been entered, fails
6 to surrender custody of minor children to the person to whom custody was awarded in an order
7 of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor
8 children over to the care and custody of the party to whom such care and custody was awarded.

9 3. The same procedures, including those designed to protect constitutional rights, shall
10 be applied to the respondent as those applied to any individual detained in police custody.

11 4. (1) Violation of the terms and conditions of an ex parte **or full** order of protection
12 with regard to abuse, child custody, or entrance upon the premises of the victim's dwelling unit
13 **or place of employment or school, or being within a certain distance of the petitioner or a**
14 **child of the petitioner**, of which the respondent has notice, shall be a class A misdemeanor[.
15 Violation of the terms and conditions of a full order of protection for a child regarding abuse,
16 child custody, or entrance upon the premises of the petitioner's dwelling unit, shall be a class A
17 misdemeanor], **unless the respondent has previously pled guilty to or has been found guilty**
18 **in state or municipal court of violating an ex parte order of protection or full order of**
19 **protection within five years of the date of the subsequent violation, in which case the**
20 **subsequent violation is a class D felony. Evidence of a prior plea of guilty or finding of**
21 **guilt shall be heard by the court out of the presence of the jury prior to submission of the**
22 **case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilty**
23 **beyond a reasonable doubt, the court shall decide the extent or duration of sentence or**
24 **other disposition and shall not instruct the jury as to the range of punishment or allow the**
25 **jury to assess and declare the punishment as part of its verdict.**

26 (2) For purposes of this subsection, in addition to the notice provided by actual service
27 of the order, a party is deemed to have notice of an order of protection for a child if the law
28 enforcement officer responding to a call of a reported incident of abuse or violation of an order
29 of protection for a child presents a copy of the order of protection to the respondent.

30 5. The fact that an act by a respondent is a violation of a valid order of protection for a
31 child shall not preclude prosecution of the respondent for other crimes arising out of the incident
32 in which the protection order is alleged to have been violated.

565.074. 1. A person commits the crime of domestic assault in the third degree if the
2 act involves a family or household member or an adult who is or has been in a continuing social
3 relationship of a romantic or intimate nature with the actor, as defined in section 455.010 and:

4 (1) The person attempts to cause or recklessly causes physical injury to such family or
5 household member; or

6 (2) With criminal negligence the person causes physical injury to such family or
7 household member by means of a deadly weapon or dangerous instrument; or

8 (3) The person purposely places such family or household member in apprehension of
9 immediate physical injury by any means; or

10 (4) The person recklessly engages in conduct which creates a grave risk of death or
11 serious physical injury to such family or household member; or

12 (5) The person knowingly causes physical contact with such family or household
13 member knowing the other person will regard the contact as offensive; or

14 (6) The person knowingly attempts to cause or causes the isolation of such family or
15 household member by unreasonably and substantially restricting or limiting such family or
16 household member's access to other persons, telecommunication devices or transportation for
17 the purpose of isolation.

18 2. Except as provided in subsection 3 of this section, domestic assault in the third degree
19 is a class A misdemeanor.

20 3. A person who has pleaded guilty to or been found guilty of the crime of domestic
21 assault in the third degree more than two times against any family or household member as
22 defined in section 455.010, **or any offense committed in violation of any county or municipal**
23 **ordinance in any state, any state law, any federal law, or any military law which, if**
24 **committed in this state, would be chargeable or indictable as a violation of this section,** is
25 guilty of a class D felony for the third or any subsequent commission of the crime of domestic
26 assault. The offenses described in this subsection may be against the same family or household
27 member or against different family or household members.