

KW

ORIGINAL



5415L04.01F

HOUSE _____ AMENDMENT NO. _____

Schad Offered By 115

1 AMEND House Committee Substitute for House Bill No. 1515, Page 3, Section 306.130, Line 20,
2 by inserting after all of said line the following:

3
4 "455.020. 1. Any [adult] person who has been subject to domestic violence by a present
5 or former family or household member, or who has been the victim of stalking, may seek relief
6 under sections 455.010 to 455.085 by filing a verified petition alleging such domestic violence or
7 stalking by the respondent.

8 2. [An adult's] A person's right to relief under sections 455.010 to 455.085 shall not be
9 affected by his leaving the residence or household to avoid domestic violence.

10 3. Any protection order issued pursuant to sections 455.010 to 455.085 shall be effective
11 throughout the state in all cities and counties.

12 455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085
13 and for good cause shown in the petition, the court may immediately issue an ex parte order of
14 protection. An immediate and present danger of [abuse] domestic violence to the petitioner or the
15 child on whose behalf the petition is filed shall constitute good cause for purposes of this section.
16 An ex parte order of protection entered by the court shall take effect when entered and shall
17 remain in effect until there is valid service of process and a hearing is held on the motion. The
18 court shall deny the ex parte and dismiss the petition if the petitioner is not authorized to seek
19 relief under section 455.020.

20 2. Failure to serve an ex parte order of protection on the respondent shall not affect the
21 validity or enforceability of such order. If the respondent is less than seventeen years of age,

_____ Action Taken _____ Date _____ 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

1 unless otherwise emancipated, service of process shall be made upon a custodial parent or
2 guardian of the respondent, or upon a guardian ad litem appointed by the court, requiring that the
3 person appear and bring the respondent before the court at the time and place stated.

4 3. If an ex parte order is entered and [the allegations in the petition would give rise to
5 jurisdiction under section 211.031 because] the respondent is less than seventeen years of age, the
6 court shall transfer the case to juvenile court for a hearing on a full order of protection. The court
7 shall appoint a guardian ad litem for any such respondent not represented by a parent or guardian.

8 455.040. 1. Not later than fifteen days after the filing of a petition [pursuant to sections
9 455.010 to 455.085] that meets the requirements of section 455.020, a hearing shall be held unless
10 the court deems, for good cause shown, that a continuance should be granted. At the hearing, if
11 the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence,
12 the court shall issue a full order of protection for a period of time the court deems appropriate,
13 except that the protective order shall be valid for at least one hundred eighty days and not more
14 than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of
15 protection may be renewed for a period of time the court deems appropriate, except that the
16 protective order shall be valid for at least one hundred eighty days and not more than one year
17 from the expiration date of the originally issued full order of protection. The court may, upon
18 finding that it is in the best interest of the parties, include a provision that any full order of
19 protection for one year shall automatically renew unless the respondent requests a hearing by
20 thirty days prior to the expiration of the order. If for good cause a hearing cannot be held on the
21 motion to renew or the objection to an automatic renewal of the full order of protection prior to
22 the expiration date of the originally issued full order of protection, an ex parte order of protection
23 may be issued until a hearing is held on the motion. When an automatic renewal is not
24 authorized, upon motion by the petitioner, and after a hearing by the court, the second full order of
25 protection may be renewed for an additional period of time the court deems appropriate, except
26 that the protective order shall be valid for at least one hundred eighty days and not more than one

Action Taken _____ Date _____ 2

1 year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not
2 required for a renewal order of protection.

3 2. The court shall cause a copy of the petition and notice of the date set for the hearing on
4 such petition and any ex parte order of protection to be served upon the respondent as provided by
5 law or by any sheriff or police officer at least three days prior to such hearing. [Such notice shall
6 be served at the earliest time, and service of such notice shall take priority over service in other
7 actions, except those of a similar emergency nature.] The court shall cause a copy of any full
8 order of protection to be served upon or mailed by certified mail to the respondent at the
9 respondent's last known address. Notice of an ex parte or full order of protection shall be served
10 at the earliest time and service of such notice shall take priority over service in other actions,
11 except those of a similar emergency nature. Failure to serve or mail a copy of the full order of
12 protection to the respondent shall not affect the validity or enforceability of a full order of
13 protection.

14 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall
15 be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the
16 petitioner resides. The clerk shall also issue a copy of any order of protection to the local law
17 enforcement agency responsible for maintaining the Missouri uniform law enforcement system or
18 any other comparable law enforcement system the same day the order is granted. The law
19 enforcement agency responsible for maintaining MULES shall, for purposes of verification,
20 within twenty-four hours from the time the order is granted, enter information contained in the
21 order including but not limited to any orders regarding child custody or visitation and all specifics
22 as to times and dates of custody or visitation that are provided in the order. A notice of expiration
23 or of termination of any order of protection or any change in child custody or visitation within that
24 order shall be issued to the local law enforcement agency and to the law enforcement agency
25 responsible for maintaining MULES or any other comparable law enforcement system. The law
26 enforcement agency responsible for maintaining the applicable law enforcement system shall enter

Action Taken _____ Date _____ 3

1 such information in the system within twenty-four hours of receipt of information evidencing such
2 expiration or termination. The information contained in an order of protection may be entered in
3 the Missouri uniform law enforcement system or comparable law enforcement system using a
4 direct automated data transfer from the court automated system to the law enforcement system.

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

11 455.060. 1. After notice and hearing, the court may modify an order of protection at any
12 time, upon subsequent motion filed by the guardian ad litem, the court-appointed special advocate
13 or by either party together with an affidavit showing a change in circumstances sufficient to
14 warrant the modification. All full orders of protection shall be final orders and appealable and
15 shall be for a fixed period of time as provided in section 455.040.

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

19 3. No order entered pursuant to sections 455.010 to 455.085 shall be res judicata to any
20 subsequent proceeding, including, but not limited to, any action brought under chapter 452[,
21 RSMo 1978, as amended].

22 4. All provisions of an order of protection shall terminate upon entry of a decree of
23 dissolution of marriage or legal separation except as to those provisions which require the
24 respondent to participate in a court-approved counseling program or enjoin the respondent from
25 abusing, molesting, stalking or disturbing the peace of the petitioner and which enjoin the
26 respondent from entering the premises of the dwelling unit of the petitioner as described in the

1 order of protection when the petitioner continues to reside in that dwelling unit unless the
2 respondent is awarded possession of the dwelling unit pursuant to a decree of dissolution of
3 marriage or legal separation.

4 5. Any order of protection or order for child support, custody, temporary custody,
5 visitation or maintenance entered under sections 455.010 to 455.085 shall terminate upon the
6 order of the court granting a motion to terminate the order of protection by the petitioner. [The
7 court shall set the motion to dismiss for hearing and both parties shall have an opportunity to be
8 heard.] Prior to terminating any order of protection, the court may [examine the circumstances of
9 the motion to dismiss and may] inquire of the petitioner or others in camera in order to [assist the
10 court in determining if] determine whether the dismissal is voluntary.

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

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

Action Taken _____ Date _____ 5

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

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

13 (1) The intent of the law to protect victims [of domestic violence] from continuing [abuse]
14 domestic violence;

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

17 (3) The history of domestic violence between the persons involved.

18
19 No law enforcement officer investigating an incident of [family] domestic violence shall threaten
20 the arrest of all parties for the purpose of discouraging requests or law enforcement intervention
21 by any party. Where complaints are received from two or more opposing parties, the officer shall
22 evaluate each complaint separately to determine whether he should seek a warrant for an arrest.

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

Action Taken _____ Date _____ 6

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

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

7 7. A violation of the terms and conditions, with regard to [abuse] domestic violence,
8 stalking, child custody, communication initiated by the respondent or entrance upon the premises
9 of the petitioner's dwelling unit or place of employment or school, or being within a certain
10 distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which
11 the respondent has notice, shall be a class A misdemeanor unless the respondent has previously
12 pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex
13 parte order of protection or a full order of protection within five years of the date of the
14 subsequent violation, in which case the subsequent violation shall be a class D felony. Evidence
15 of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the
16 jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas
17 of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or
18 duration of sentence or other disposition and shall not instruct the jury as to the range of
19 punishment or allow the jury to assess and declare the punishment as a part of its verdict.

20 8. A violation of the terms and conditions, with regard to [abuse] domestic violence,
21 stalking, child custody, communication initiated by the respondent or entrance upon the premises
22 of the petitioner's dwelling unit or place of employment or school, or being within a certain
23 distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A
24 misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in
25 any division of the circuit court of violating an ex parte order of protection or a full order of
26 protection within five years of the date of the subsequent violation, in which case the subsequent

Action Taken _____ Date _____ 7

1 violation shall be a class D felony. Evidence of prior pleas of guilty or findings of guilt shall be
2 heard by the court out of the presence of the jury prior to submission of the case to the jury. If the
3 court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt,
4 the court shall decide the extent or duration of the sentence or other disposition and shall not
5 instruct the jury as to the range of punishment or allow the jury to assess and declare the
6 punishment as a part of its verdict. For the purposes of this subsection, in addition to the notice
7 provided by actual service of the order, a party is deemed to have notice of an order of protection
8 if the law enforcement officer responding to a call of a reported incident of abuse or violation of
9 an order of protection presented a copy of the order of protection to the respondent.

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

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

14 455.505. 1. An order of protection for a child who has been subject to domestic violence
15 by a present or former [adult] household member or person stalking the child may be sought under
16 sections 455.500 to 455.538 by the filing of a verified petition alleging such domestic violence by
17 the respondent.

18 2. A child's right to relief under sections 455.500 to 455.538 shall not be affected by his
19 leaving the residence or household to avoid domestic violence.

20 3. Any protection order issued pursuant to sections 455.500 to 455.538 shall be effective
21 throughout the state in all cities and counties.

22 455.513. 1. Upon the filing of a verified petition under sections 455.500 to 455.538, for
23 good cause shown in the petition, and upon finding that no prior order regarding custody is
24 pending or has been made or that the respondent is less than seventeen years of age, the court may
25 immediately issue an ex parte order of protection. An immediate and present danger of [abuse]
26 domestic violence to a child shall constitute good cause for purposes of this section. An ex parte

1 order of protection entered by the court shall be in effect until the time of the hearing. The court
2 shall deny the ex parte and dismiss the petition if the petitioner is not authorized to seek relief
3 under section 455.505.

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

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

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

15 455.523. 1. Any full order of protection granted under sections 455.500 to 455.538 shall
16 be to protect the victim from domestic violence and may include such terms as the court
17 reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

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

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

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

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

26 (1) Award custody of any minor child born to or adopted by the parties when the court has

Action Taken _____ Date _____ 9

1 jurisdiction over such child and no prior order regarding custody is pending or has been made, and
2 the best interests of the child require such order be issued;

3 (2) Award visitation;

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

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

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

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

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

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

17 455.538. 1. When a law enforcement officer has probable cause to believe that a party,
18 against whom a protective order for a child has been entered, has committed an act of [abuse]
19 domestic violence in violation of that order, he shall have the authority to arrest the respondent
20 whether or not the violation occurred in the presence of the arresting officer.

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

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

Action Taken _____ Date _____ 10

1 4. (1) Violation of the terms and conditions of an ex parte or full order of protection with
2 regard to abuse, child custody, communication initiated by the respondent, or entrance upon the
3 premises of the victim's dwelling unit or place of employment or school, or being within a certain
4 distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a
5 class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found
6 guilty in any division of the circuit court of violating an ex parte order of protection or a full order
7 of protection within five years of the date of the subsequent violation, in which case the
8 subsequent violation shall be a class D felony. Evidence of a prior plea of guilty or finding of
9 guilt shall be heard by the court out of the presence of the jury prior to submission of the case to
10 the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a
11 reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and
12 shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the
13 punishment as a part of its verdict.

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

18 5. The fact that an act by a respondent is a violation of a valid order of protection for a
19 child shall not preclude prosecution of the respondent for other crimes arising out of the incident
20 in which the protection order is alleged to have been violated.”; and

21
22 Further amend said bill, Page 4, Section 513.653, Line 18, by inserting after all of said line the
23 following:

24
25 “527.290. 1. Public notice of such a change of name shall be given at least three times in
26 a newspaper published in the county where such person is residing, within twenty days after the

Action Taken _____ Date _____ 11

1 order of court is made, and if no newspaper is published in his or any adjacent county, then such
2 notice shall be given in a newspaper published in the City of St. Louis, or at the seat of
3 government.

4 2. Public notice of such name change through publication as required in subsection 1 of
5 this section shall not be required and any system operated by the judiciary that is designed to
6 provide public case information electronically shall not post the name change if the petitioner is:

7 (1) The victim of a crime, the underlying factual basis of which is found by the court on
8 the record to include an act of domestic violence, as defined in section 455.010;

9 (2) The victim of child abuse, as defined in section 210.110; or

10 (3) The victim of [abuse] domestic violence by a family or household member, as defined
11 in section 455.010.

12 565.074. 1. A person commits the crime of domestic assault in the third degree if the act
13 involves a family or household member [or an adult who is or has been in a continuing social
14 relationship of a romantic or intimate nature with the actor], as defined in section 455.010 and:

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

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

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

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

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

25 (6) The person knowingly attempts to cause or causes the isolation of such family or
26 household member by unreasonably and substantially restricting or limiting such family or

Action Taken _____ Date _____ 12

1 household member's access to other persons, telecommunication devices or transportation for the
2 purpose of isolation.

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

5 3. A person who has pleaded guilty to or been found guilty of the crime of domestic
6 assault in the third degree more than two times against any family or household member as
7 defined in section 455.010, or of any offense committed in violation of any county or municipal
8 ordinance in any state, any state law, any federal law, or any military law which, if committed in
9 this state, would be a violation of this section, is guilty of a class D felony for the third or any
10 subsequent commission of the crime of domestic assault. The offenses described in this
11 subsection may be against the same family or household member or against different family or
12 household members.”; and

13

14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.

Action Taken _____ Date _____ 13

