

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 556**  
98TH GENERAL ASSEMBLY

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Reported from the Committee on Seniors, Families and Children, April 16, 2015, with recommendation that the Senate Committee Substitute do pass.

1426S.04C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 211.031, 211.036, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof nineteen new sections relating to children and families, with penalty provisions.

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

Section A. Sections 211.031, 211.036, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.503, 455.505, 455.513, 455.520, and 455.523, RSMo, section 455.085 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 455.085 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 455.538 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 455.538 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 192.390, 210.118, 210.148, 211.031, 211.036, 455.010, 455.020, 455.032, 455.040, 455.045, 455.050, 455.080, 455.085, 455.503, 455.505, 455.513, 455.520, 455.523, and 455.538, to read as follows:

**192.390. 1. The department shall provide coverage, subject to**

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

2 state and federal appropriations, for the full cost of amino acid-based  
3 elemental formulas, meaning formulas made from single nonallergenic  
4 amino acids, for children under nineteen years of age with a medical  
5 diagnosis of immunoglobulin E and nonimmunoglobulin E mediated  
6 allergies to multiple food proteins, food protein-induced enterocolitis  
7 syndrome, eosinophilic disorders, and impaired absorption of nutrients  
8 caused by disorders affecting the absorptive surface, functional length,  
9 and motility of the gastrointestinal tract.

10       2. The department may promulgate rules and regulations to  
11 implement the provisions of this section. Any rule or portion of a rule,  
12 as that term is defined in section 536.010 that is created under the  
13 authority delegated in this section shall become effective only if it  
14 complies with and is subject to all of the provisions of chapter 536, and,  
15 if applicable, section 536.028. This section and chapter 536 are  
16 nonseverable and if any of the powers vested with the general assembly  
17 pursuant to chapter 536, to review, to delay the effective date, or to  
18 disapprove and annul a rule are subsequently held unconstitutional,  
19 then the grant of rulemaking authority and any rule proposed or  
20 adopted after August 28, 2015, shall be invalid and void.

210.118. 1. In any action under chapter 210 or 211 in which the  
2 court finds by a preponderance of the evidence that a party is  
3 responsible for child abuse or neglect as those terms are defined in  
4 section 210.110, the clerk shall send a certified copy of the judgment or  
5 order to the children's division. Upon receipt of the order the  
6 children's division shall list the individual as a perpetrator of child  
7 abuse or neglect in the central registry.

8       2. In every case in which the person has pled guilty or has been  
9 found guilty of:

10       (1) A crime under section 565.020, 565.021, 565.023, 565.024,  
11 565.050, 566.030, 566.060, or 567.050 and the victim is a child less than  
12 eighteen years of age;

13       (2) Any other crime in chapter 566 if the victim is a child less  
14 than eighteen years of age and the perpetrator is twenty-one years of  
15 age or older;

16       (3) A crime under section 568.020, 568.030, 568.045, 568.050,  
17 568.060, 568.080, 568.090, 573.025, or 573.035; or

18       (4) An attempt to commit any such crimes;

19 the court shall enter an order directing the children's division to list  
20 the individual as a perpetrator of child abuse or neglect in the central  
21 registry. The clerk shall send a certified copy of the order to the  
22 children's division. Upon receipt of the order the children's division  
23 shall list the individual as a perpetrator of child abuse or neglect in the  
24 central registry.

210.148. 1. Notwithstanding any provision of section 210.145 to  
2 the contrary, upon the receipt of a report under section 210.145 where  
3 the subject of the report is a juvenile with problem sexual behavior, the  
4 division shall immediately communicate such report to the appropriate  
5 local office along with any relevant information as may be contained in  
6 the information system. Upon receipt of the report and relevant  
7 information, the local office shall use a family assessment and services  
8 approach, as described in subsection 14 of section 210.145 to respond  
9 to the allegation contained in the report. For the purposes of family  
10 assessments performed under this section, the alleged abuse does not  
11 have to be committed by a person responsible for the care, custody, and  
12 control of the child.

13 2. Nothing in this section shall prohibit the local office from  
14 commencing an investigation if the local office, at any point in using  
15 the family assessment and services approach, determines that an  
16 investigation is required. Such investigation shall comply with the  
17 provisions of section 210.145 and may include requesting assistance  
18 from the appropriate law enforcement agency.

19 3. As used in this section, the term "juvenile with problem sexual  
20 behavior" shall mean any person, under fourteen years of age, who has  
21 allegedly committed sexual abuse against another child.

22 4. Within one hundred eighty days after August 28, 2015, the  
23 division shall promulgate rules to implement the provisions of this  
24 section. Any rule or portion of a rule, as that term is defined in section  
25 536.010 that is created under the authority delegated in this section  
26 shall become effective only if it complies with and is subject to all of  
27 the provisions of chapter 536, and, if applicable, section 536.028. This  
28 section and chapter 536 are nonseverable and if any of the powers  
29 vested with the general assembly pursuant to chapter 536, to review, to  
30 delay the effective date, or to disapprove and annul a rule are  
31 subsequently held unconstitutional, then the grant of rulemaking

32 **authority and any rule proposed or adopted after August 28, 2015, shall**  
33 **be invalid and void.**

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

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

8 (a) The parents, or other persons legally responsible for the care and  
9 support of the child or person seventeen years of age, neglect or refuse to provide  
10 proper support, education which is required by law, medical, surgical or other  
11 care necessary for his or her well-being; except that reliance by a parent,  
12 guardian or custodian upon remedial treatment other than medical or surgical  
13 treatment for a child or person seventeen years of age shall not be construed as  
14 neglect when the treatment is recognized or permitted pursuant to the laws of  
15 this state;

16 (b) The child or person seventeen years of age is otherwise without proper  
17 care, custody or support; [or]

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

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

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

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

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

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

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

34 (e) The child is charged with an offense not classified as criminal, or with

35 an offense applicable only to children; except that, the juvenile court shall not  
36 have jurisdiction over any child fifteen years of age who is alleged to have  
37 violated a state or municipal traffic ordinance or regulation, the violation of  
38 which does not constitute a felony, or any child who is alleged to have violated a  
39 state or municipal ordinance or regulation prohibiting possession or use of any  
40 tobacco product;

41 (3) Involving any child who is alleged to have violated a state law or  
42 municipal ordinance, or any person who is alleged to have violated a state law or  
43 municipal ordinance prior to attaining the age of seventeen years, in which cases  
44 jurisdiction may be taken by the court of the circuit in which the child or person  
45 resides or may be found or in which the violation is alleged to have occurred;  
46 except that, the juvenile court shall not have jurisdiction over any child fifteen  
47 years of age who is alleged to have violated a state or municipal traffic ordinance  
48 or regulation, the violation of which does not constitute a felony, and except that  
49 the juvenile court shall have concurrent jurisdiction with the municipal court over  
50 any child who is alleged to have violated a municipal curfew ordinance, and  
51 except that the juvenile court shall have concurrent jurisdiction with the circuit  
52 court on any child who is alleged to have violated a state or municipal ordinance  
53 or regulation prohibiting possession or use of any tobacco product;

54 (4) For the adoption of a person;

55 (5) For the commitment of a child or person seventeen years of age to the  
56 guardianship of the department of social services as provided by law; [and]

57 (6) Involving an order of protection pursuant to chapter 455 when the  
58 respondent is less than seventeen years of age; **and**

59 **(7) Involving any youth under twenty-one years of age for whom**  
60 **a petition to return the youth to children's division custody has been**  
61 **filed under section 211.036.**

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

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

70 (2) Upon the motion of any party or on its own motion prior to final

71 disposition on the pending matter, the court in which a proceeding is commenced  
72 may transfer the proceeding of a child or person seventeen years of age to the  
73 court located in the county of the child's residence or the residence of the person  
74 seventeen years of age, or the county in which the offense pursuant to subdivision  
75 (3) of subsection 1 of this section is alleged to have occurred for further action;

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

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

87 (5) Upon motion of any child or person seventeen years of age or his or  
88 her parent, the court having jurisdiction shall grant one change of judge pursuant  
89 to Missouri supreme court rules;

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

94 3. In any proceeding involving any child or person seventeen years of age  
95 taken into custody in a county other than the county of the child's residence or  
96 the residence of a person seventeen years of age, the juvenile court of the county  
97 of the child's residence or the residence of a person seventeen years of age shall  
98 be notified of such taking into custody within seventy-two hours.

99 4. When an investigation by a juvenile officer pursuant to this section  
100 reveals that the only basis for action involves an alleged violation of section  
101 167.031 involving a child who alleges to be home schooled, the juvenile officer  
102 shall contact a parent or parents of such child to verify that the child is being  
103 home schooled and not in violation of section 167.031 before making a report of  
104 such a violation. Any report of a violation of section 167.031 made by a juvenile  
105 officer regarding a child who is being home schooled shall be made to the  
106 prosecuting attorney of the county where the child legally resides.

107           5. The disability or disease of a parent shall not constitute a basis for a  
108 determination that a child is a child in need of care or for the removal of custody  
109 of a child from the parent without a specific showing that there is a causal  
110 relation between the disability or disease and harm to the child.

211.036. 1. If a youth under the age of twenty-one is released from the  
2 custody of the children's division and after such release it appears that it would  
3 be in such youth's best interest to have his or her custody returned to the  
4 children's division, the juvenile officer, the children's division or the youth may  
5 petition the court to return custody of such youth to the division until the youth  
6 is twenty-one years of age. **The petition shall be filed in the court that**  
7 **previously exercised authority over the youth under section 211.031. If**  
8 **such petition is not heard within six months of the filing date, the**  
9 **petition may be filed in the court where the youth resides or in the**  
10 **court of an adjacent county. In deciding if it is in the best interests of**  
11 **the youth to be returned to the custody of the division under this**  
12 **section, the court shall consider the following factors:**

13           (1) **The circumstances of the youth;**

14           (2) **Whether the children's division has services or programs in**  
15 **place that will benefit the youth and assist the youth in transitioning**  
16 **to self-sufficiency; and**

17           (3) **Whether the youth has the commitment to fully cooperate**  
18 **with the division in developing and implementing a case plan.**

19 **The court shall not return a youth to the custody of the division who**  
20 **has been committed to the custody of another agency; who is under a**  
21 **legal guardianship; or who has pled guilty or who has been found guilty**  
22 **of a felony criminal offense.**

23           2. **The youth shall cooperate with the case plan developed for the**  
24 **youth by the children's division in consultation with the youth.**

25           3. **For purposes of this section, a "youth" is any person eighteen**  
26 **years of age or older and under twenty-one years of age who was in the**  
27 **custody of the children's division in foster care at any time in the two-**  
28 **year period preceding the youth's eighteenth birthday.**

29           4. **The court may, upon motion of the children's division or the**  
30 **youth, terminate care and supervision before the youth's twenty-first**  
31 **birthday if the division does not have services available for the youth**  
32 **or if the youth declines to cooperate with the case plan.**

455.010. As used in this chapter, unless the context clearly indicates

2 otherwise, the following terms shall mean:

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

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

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

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

15 (d) "Harassment", engaging in a purposeful or knowing course of conduct  
16 involving more than one incident that alarms or causes distress to an adult or  
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, [or] duress, **or without**  
26 **that 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) "Petitioner", a family or household member who has been a victim of  
53 domestic violence, or any person who has been the victim of stalking **or sexual**  
54 **assault**, or a person filing on behalf of a child pursuant to section 455.503 who  
55 has filed a verified petition pursuant to the provisions of section 455.020 or  
56 section 455.505;

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

61 (13) **"Sexual assault", as defined under subdivision (1) of this**  
62 **section;**

63 (14) "Stalking" is when any person purposely [and repeatedly] engages  
64 in an unwanted course of conduct that causes alarm to another person when it  
65 is reasonable in that person's situation to have been alarmed by the conduct. As  
66 used in this subdivision:

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

68 (b) "Course of conduct" means a pattern of conduct composed of repeated  
69 acts over a period of time, however short, that serves no legitimate purpose. Such  
70 conduct may include, but is not limited to, following the other person or unwanted  
71 communication or unwanted contact[; and

72 (c) "Repeated" means two or more incidents evidencing a continuity of  
73 purpose].

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

6 2. A person's right to relief under sections 455.010 to 455.085 shall not be  
7 affected by the person leaving the residence or household to avoid domestic  
8 violence.

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

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  
5 petitioner, pursuant to sections 455.010 to 455.085, if the petitioner is present,  
6 whether permanently or on a temporary basis within the state of Missouri and  
7 if the respondent's actions constituting domestic violence have occurred, have  
8 been attempted or have been or are threatened within the state of Missouri. For  
9 purposes of this section, if the petitioner has been the subject of domestic violence  
10 within or outside of the state of Missouri, such evidence shall be admissible to  
11 demonstrate the need for protection in Missouri.

455.040. 1. Not later than fifteen days after the filing of a petition that  
2 meets the requirements of section 455.020, a hearing shall be held unless the  
3 court deems, for good cause shown, that a continuance should be granted. At the  
4 hearing, if the petitioner has proved the allegation of domestic violence [or],  
5 stalking, **or sexual assault** by a preponderance of the evidence, and the  
6 respondent cannot show that his or her actions alleged to constitute abuse were  
7 otherwise justified under the law, the court shall issue a full order of protection  
8 for a period of time the court deems appropriate, except that the protective order  
9 shall be valid for at least one hundred eighty days and not more than one  
10 year. Upon motion by the petitioner, and after a hearing by the court, the full  
11 order of protection may be renewed for a period of time the court deems  
12 appropriate, except that the protective order shall be valid for at least one  
13 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  
15 in the best interest of the parties, include a provision that any full order of

16 protection for one year shall automatically renew unless the respondent requests  
17 a hearing by thirty days prior to the expiration of the order. If for good cause a  
18 hearing cannot be held on the motion to renew or the objection to an automatic  
19 renewal of the full order of protection prior to the expiration date of the originally  
20 issued full order of protection, an ex parte order of protection may be issued until  
21 a hearing is held on the motion. When an automatic renewal is not authorized,  
22 upon motion by the petitioner, and after a hearing by the court, the second full  
23 order of protection may be renewed for an additional period of time the court  
24 deems appropriate, except that the protective order shall be valid for at least one  
25 hundred eighty days and not more than one year. For purposes of this  
26 subsection, a finding by the court of a subsequent act of domestic violence [or],  
27 stalking, **or sexual assault** is not required for a renewal order of protection.

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

39         3. A copy of any order of protection granted pursuant to sections 455.010  
40 to 455.085 shall be issued to the petitioner and to the local law enforcement  
41 agency in the jurisdiction where the petitioner resides. The clerk shall also issue  
42 a copy of any order of protection to the local law enforcement agency responsible  
43 for maintaining the Missouri uniform law enforcement system or any other  
44 comparable law enforcement system the same day the order is granted. The law  
45 enforcement agency responsible for maintaining MULES shall, for purposes of  
46 verification, within twenty-four hours from the time the order is granted, enter  
47 information contained in the order including but not limited to any orders  
48 regarding child custody or visitation and all specifics as to times and dates of  
49 custody or visitation that are provided in the order. A notice of expiration or of  
50 termination of any order of protection or any change in child custody or visitation  
51 within that order shall be issued to the local law enforcement agency and to the

52 law enforcement agency responsible for maintaining MULES or any other  
53 comparable law enforcement system. The law enforcement agency responsible for  
54 maintaining the applicable law enforcement system shall enter such information  
55 in the system within twenty-four hours of receipt of information evidencing such  
56 expiration or termination. The information contained in an order of protection  
57 may be entered in the Missouri uniform law enforcement system or comparable  
58 law enforcement system using a direct automated data transfer from the court  
59 automated system to the law enforcement system.

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

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 [or],  
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  
6 of 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.

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  
8 the peace of the petitioner;

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

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

70 6. The court shall grant to the noncustodial parent rights to visitation  
71 with any minor child born to or adopted by the parties, unless the court finds,  
72 after hearing, that visitation would endanger the child's physical health, impair  
73 the child's emotional development or would otherwise conflict with the best  
74 interests of the child, or that no visitation can be arranged which would

75 sufficiently protect the custodial parent from further domestic violence. The court  
76 may appoint a guardian ad litem or court-appointed special advocate to represent  
77 the minor child in accordance with chapter 452 whenever the custodial parent  
78 alleges that visitation with the noncustodial parent will damage the minor child.

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

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

455.080. 1. Law enforcement agencies may establish procedures to ensure  
2 that dispatchers and officers at the scene of an alleged incident of domestic  
3 violence [or], stalking, **sexual assault**, or violation of an order of protection can  
4 be informed of any recorded prior incident of domestic violence [or], stalking, **or**  
5 **sexual assault** involving the abused party and can verify the effective dates and  
6 terms of any recorded order of protection.

7         2. The law enforcement agency shall apply the same standard for response  
8 to an alleged incident of domestic violence [or], stalking, **sexual assault**, or a  
9 violation of any order of protection as applied to any like offense involving  
10 strangers, except as otherwise provided by law. Law enforcement agencies shall  
11 not assign lower priority to calls involving alleged incidents of domestic violence  
12 [or], stalking, **sexual assault**, or violation of protection orders than is assigned  
13 in responding to offenses involving strangers. Existence of any of the following  
14 factors shall be interpreted as indicating a need for immediate response:

- 15         (1) The caller indicates that violence is imminent or in progress; or  
16         (2) A protection order is in effect; or  
17         (3) The caller indicates that incidents of domestic violence have occurred  
18 previously between the parties.

19         3. Law enforcement agencies may establish domestic crisis teams or, if the  
20 agency has fewer than five officers whose responsibility it is to respond to calls  
21 of this nature, individual officers trained in methods of dealing with domestic  
22 violence. Such teams or individuals may be supplemented by social workers,  
23 ministers or other persons trained in counseling or crisis intervention. When an  
24 alleged incident of domestic violence is reported, the agency may dispatch a crisis

25 team or specially trained officer, if available, to the scene of the incident.

26 4. The officer at the scene of an alleged incident of domestic violence [or],  
27 stalking, **or sexual assault** shall inform the abused party of available judicial  
28 remedies for relief from domestic violence and of available shelters for victims of  
29 domestic violence.

30 5. Law enforcement officials at the scene shall provide or arrange  
31 transportation for the abused party to a medical facility for treatment of injuries  
32 or to a place of shelter or safety.

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

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

24 3. When an officer makes an arrest, the officer is not required to arrest  
25 two parties involved in an assault when both parties claim to have been  
26 assaulted. The arresting officer shall attempt to identify and shall arrest the  
27 party the officer believes is the primary physical aggressor. The term "primary  
28 physical aggressor" is defined as the most significant, rather than the first,

29 aggressor. The law enforcement officer shall consider any or all of the following  
30 in determining the primary physical aggressor:

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

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

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

36 No law enforcement officer investigating an incident of domestic violence shall  
37 threaten the arrest of all parties for the purpose of discouraging requests or law  
38 enforcement intervention by any party. Where complaints are received from two  
39 or more opposing parties, the officer shall evaluate each complaint separately to  
40 determine whether the officer should seek a warrant for an arrest.

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

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

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

53 7. A violation of the terms and conditions, with regard to domestic  
54 violence, stalking, **sexual assault**, child custody, communication initiated by the  
55 respondent or entrance upon the premises of the petitioner's dwelling unit or  
56 place of employment or school, or being within a certain distance of the petitioner  
57 or a child of the petitioner, of an ex parte order of protection of which the  
58 respondent has notice, shall be a class A misdemeanor unless the respondent has  
59 previously pleaded guilty to or has been found guilty in any division of the circuit  
60 court of violating an ex parte order of protection or a full order of protection  
61 within five years of the date of the subsequent violation, in which case the  
62 subsequent violation shall be a class E felony. Evidence of prior pleas of guilty  
63 or findings of guilt shall be heard by the court out of the presence of the jury  
64 prior to submission of the case to the jury. If the court finds the existence of such

65 prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall  
66 decide the extent or duration of sentence or other disposition and shall not  
67 instruct the jury as to the range of punishment or allow the jury to assess and  
68 declare the punishment as a part of its verdict.

69 8. A violation of the terms and conditions, with regard to domestic  
70 violence, stalking, **sexual assault**, child custody, communication initiated by the  
71 respondent or entrance upon the premises of the petitioner's dwelling unit or  
72 place of employment or school, or being within a certain distance of the petitioner  
73 or a child of the petitioner, of a full order of protection shall be a class A  
74 misdemeanor, unless the respondent has previously pleaded guilty to or has been  
75 found guilty in any division of the circuit court of violating an ex parte order of  
76 protection or a full order of protection within five years of the date of the  
77 subsequent violation, in which case the subsequent violation shall be a class E  
78 felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the  
79 court out of the presence of the jury prior to submission of the case to the jury.  
80 If the court finds the existence of such prior plea of guilty or finding of guilt  
81 beyond a reasonable doubt, the court shall decide the extent or duration of the  
82 sentence or other disposition and shall not instruct the jury as to the range of  
83 punishment or allow the jury to assess and declare the punishment as a part of  
84 its verdict. For the purposes of this subsection, in addition to the notice provided  
85 by actual service of the order, a party is deemed to have notice of an order of  
86 protection if the law enforcement officer responding to a call of a reported  
87 incident of domestic violence, stalking, **sexual assault**, or violation of an order  
88 of protection presented a copy of the order of protection to the respondent.

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

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

455.085. 1. When a law enforcement officer has probable cause to believe  
2 a party has committed a violation of law amounting to domestic violence, as  
3 defined in section 455.010, against a family or household member, the officer may  
4 arrest the offending party whether or not the violation occurred in the presence  
5 of the arresting officer. When the officer declines to make arrest pursuant to this  
6 subsection, the officer shall make a written report of the incident completely  
7 describing the offending party, giving the victim's name, time, address, reason  
8 why no arrest was made and any other pertinent information. Any law

9 enforcement officer subsequently called to the same address within a twelve-hour  
10 period, who shall find probable cause to believe the same offender has again  
11 committed a violation as stated in this subsection against the same or any other  
12 family or household member, shall arrest the offending party for this subsequent  
13 offense. The primary report of nonarrest in the preceding twelve-hour period may  
14 be considered as evidence of the defendant's intent in the violation for which  
15 arrest occurred. The refusal of the victim to sign an official complaint against the  
16 violator shall not prevent an arrest under this subsection.

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

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

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

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

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

36 No law enforcement officer investigating an incident of domestic violence shall  
37 threaten the arrest of all parties for the purpose of discouraging requests or law  
38 enforcement intervention by any party. Where complaints are received from two  
39 or more opposing parties, the officer shall evaluate each complaint separately to  
40 determine whether the officer should seek a warrant for an arrest.

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

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

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

53           7. A violation of the terms and conditions, with regard to domestic  
54 violence, stalking, **sexual assault**, child custody, communication initiated by the  
55 respondent or entrance upon the premises of the petitioner's dwelling unit or  
56 place of employment or school, or being within a certain distance of the petitioner  
57 or a child of the petitioner, of an ex parte order of protection of which the  
58 respondent has notice, shall be a class A misdemeanor unless the respondent has  
59 previously pleaded guilty to or has been found guilty in any division of the circuit  
60 court of violating an ex parte order of protection or a full order of protection  
61 within five years of the date of the subsequent violation, in which case the  
62 subsequent violation shall be a class D felony. Evidence of prior pleas of guilty  
63 or findings of guilt shall be heard by the court out of the presence of the jury  
64 prior to submission of the case to the jury. If the court finds the existence of such  
65 prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall  
66 decide the extent or duration of sentence or other disposition and shall not  
67 instruct the jury as to the range of punishment or allow the jury to assess and  
68 declare the punishment as a part of its verdict.

69           8. A violation of the terms and conditions, with regard to domestic  
70 violence, stalking, **sexual assault**, child custody, communication initiated by the  
71 respondent or entrance upon the premises of the petitioner's dwelling unit or  
72 place of employment or school, or being within a certain distance of the petitioner  
73 or a child of the petitioner, of a full order of protection shall be a class A  
74 misdemeanor, unless the respondent has previously pleaded guilty to or has been  
75 found guilty in any division of the circuit court of violating an ex parte order of  
76 protection or a full order of protection within five years of the date of the  
77 subsequent violation, in which case the subsequent violation shall be a class D  
78 felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the  
79 court out of the presence of the jury prior to submission of the case to the jury.  
80 If the court finds the existence of such prior plea of guilty or finding of guilt

81 beyond a reasonable doubt, the court shall decide the extent or duration of the  
82 sentence or other disposition and shall not instruct the jury as to the range of  
83 punishment or allow the jury to assess and declare the punishment as a part of  
84 its verdict. For the purposes of this subsection, in addition to the notice provided  
85 by actual service of the order, a party is deemed to have notice of an order of  
86 protection if the law enforcement officer responding to a call of a reported  
87 incident of domestic violence, stalking, **sexual assault**, or violation of an order  
88 of protection presented a copy of the order of protection to the respondent.

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

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

455.503. 1. A petition for an order of protection for a child shall be filed  
2 in the county where the child resides, where the alleged incident of domestic  
3 violence [or], stalking, **or sexual assault** occurred, or where the respondent may  
4 be served.

5 2. Such petition may be filed by any of the following:

6 (1) A parent or guardian of the victim;

7 (2) A guardian ad litem or court-appointed special advocate appointed for  
8 the victim; or

9 (3) The juvenile officer.

455.505. 1. An order of protection for a child who has been subject to  
2 domestic violence by a present or former household member or [person] **sexual**  
3 **assault or** stalking [the child] **by any person** may be sought under sections  
4 455.500 to 455.538 by the filing of a verified petition alleging such domestic  
5 violence [or], stalking, **or sexual assault** by the respondent.

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

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

455.513. 1. Upon the filing of a verified petition under sections 455.500  
2 to 455.538, for good cause shown in the petition, and upon finding that no prior  
3 order regarding custody is pending or has been made or that the respondent is  
4 less than seventeen years of age, the court may immediately issue an ex parte  
5 order of protection. An immediate and present danger of domestic violence [or],

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

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

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

20 4. If the allegations in the petition would give rise to jurisdiction under  
21 section 211.031 because the respondent is less than seventeen years of age, the  
22 court may issue an ex parte order and shall transfer the case to juvenile court for  
23 a hearing on a full order of protection. Service of process shall be made pursuant  
24 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 [or],  
3 stalking, **or sexual assault** and may include such terms as the court reasonably  
4 deems necessary to ensure the victim's safety, including but not limited to:

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

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

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

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

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

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

17 (2) The verified allegations of domestic violence present a substantial risk

18 to the child or children unless the respondent is excluded; and

19 (3) A remaining adult family or household member is able to care  
20 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 [and], stalking,  
3 **and sexual assault** may include such terms as the court reasonably deems  
4 necessary to ensure the petitioner's safety, including but not limited to:

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

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

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

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

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

19 (2) Award visitation;

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

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

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

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

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

32 (8) Order the respondent to pay a reasonable fee for housing and other  
33 services that have been provided or that are being provided to the victim by a

34 shelter for victims of domestic violence.

455.538. 1. When a law enforcement officer has probable cause to believe  
2 that a party, against whom a protective order for a child has been entered, has  
3 committed an act in violation of that order, the officer shall have the authority  
4 to arrest the respondent whether or not the violation occurred in the presence of  
5 the arresting officer.

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

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

14 4. (1) Violation of the terms and conditions of an ex parte or full order of  
15 protection with regard to domestic violence, stalking, **sexual assault**, child  
16 custody, communication initiated by the respondent, or entrance upon the  
17 premises of the victim's dwelling unit or place of employment or school, or being  
18 within a certain distance of the petitioner or a child of the petitioner, of which the  
19 respondent has notice, shall be a class A misdemeanor, unless the respondent has  
20 previously pleaded guilty to or has been found guilty in any division of the circuit  
21 court of violating an ex parte order of protection or a full order of protection  
22 within five years of the date of the subsequent violation, in which case the  
23 subsequent violation shall be a class E felony. Evidence of a prior plea of guilty  
24 or finding of guilt shall be heard by the court out of the presence of the jury prior  
25 to submission of the case to the jury. If the court finds the existence of a prior  
26 plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide  
27 the extent or duration of sentence or other disposition and shall not instruct the  
28 jury as to the range of punishment or allow the jury to assess and declare the  
29 punishment as a part of its verdict.

30 (2) For purposes of this subsection, in addition to the notice provided by  
31 actual service of the order, a party is deemed to have notice of an order of  
32 protection for a child if the law enforcement officer responding to a call of a  
33 reported incident of domestic violence [or], stalking, **sexual assault**, or violation  
34 of an order of protection for a child presents a copy of the order of protection to  
35 the respondent.

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

          455.538. 1. When a law enforcement officer has probable cause to believe  
2 that a party, against whom a protective order for a child has been entered, has  
3 committed an act in violation of that order, the officer shall have the authority  
4 to arrest the respondent whether or not the violation occurred in the presence of  
5 the arresting officer.

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

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

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

30          (2) For purposes of this subsection, in addition to the notice provided by  
31 actual service of the order, a party is deemed to have notice of an order of  
32 protection for a child if the law enforcement officer responding to a call of a

33 reported incident of domestic violence [or], stalking, **sexual assault**, or violation  
34 of an order of protection for a child presents a copy of the order of protection to  
35 the respondent.

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

✓