

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 71

101ST GENERAL ASSEMBLY

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1081S.02C

ADRIANE D. CROUSE, Secretary

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## AN ACT

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

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

Section A. Sections 455.010, 455.032, 455.035, 455.045,  
2 455.050, 455.513, 455.520, and 455.523, RSMo, are repealed and  
3 eight new sections enacted in lieu thereof, to be known as  
4 sections 455.010, 455.032, 455.035, 455.045, 455.050, 455.513,  
5 455.520, and 455.523, to read as follows:

455.010. As used in this chapter, unless the context  
2 clearly indicates otherwise, the following terms shall mean:

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

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

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

14 (c) "Coercion", compelling another by force or threat  
15 of force to engage in conduct from which the latter has a

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

16 right to abstain or to abstain from conduct in which the  
17 person has a right to engage;

18 (d) "Harassment", engaging in a purposeful or knowing  
19 course of conduct involving more than one incident that  
20 alarms or causes distress to an adult or child and serves no  
21 legitimate purpose. The course of conduct must be such as  
22 would cause a reasonable adult or child to suffer  
23 substantial emotional distress and must actually cause  
24 substantial emotional distress to the petitioner or child.  
25 Such conduct might include, but is not limited to:

26 a. Following another about in a public place or places;

27 b. Peering in the window or lingering outside the  
28 residence of another; but does not include constitutionally  
29 protected activity;

30 (e) "Sexual assault", causing or attempting to cause  
31 another to engage involuntarily in any sexual act by force,  
32 threat of force, duress, or without that person's consent;

33 (f) "Unlawful imprisonment", holding, confining,  
34 detaining or abducting another person against that person's  
35 will;

36 (2) "Adult", any person seventeen years of age or  
37 older or otherwise emancipated;

38 (3) "Child", any person under seventeen years of age  
39 unless otherwise emancipated;

40 (4) "Court", the circuit or associate circuit judge or  
41 a family court commissioner;

42 (5) "Domestic violence", abuse or stalking committed  
43 by a family or household member, as such terms are defined  
44 in this section;

45 (6) "Ex parte order of protection", an order of  
46 protection issued by the court before the respondent has

47 received notice of the petition or an opportunity to be  
48 heard on it;

49 (7) "Family" or "household member", spouses, former  
50 spouses, any person related by blood or marriage, persons  
51 who are presently residing together or have resided together  
52 in the past, any person who is or has been in a continuing  
53 social relationship of a romantic or intimate nature with  
54 the victim, and anyone who has a child in common regardless  
55 of whether they have been married or have resided together  
56 at any time;

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

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

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

65 (11) **"Pet", a living creature maintained by a**  
66 **household member for companionship and not for commercial**  
67 **purposes;**

68 (12) "Petitioner", a family or household member who  
69 has been a victim of domestic violence, or any person who  
70 has been the victim of stalking or sexual assault, or a  
71 person filing on behalf of a child pursuant to section  
72 455.503 who has filed a verified petition pursuant to the  
73 provisions of section 455.020 or section 455.505;

74 [(12)] (13) "Respondent", the family or household  
75 member alleged to have committed an act of domestic  
76 violence, or person alleged to have committed an act of  
77 stalking or sexual assault, against whom a verified petition

78 has been filed or a person served on behalf of a child  
79 pursuant to section 455.503;

80 [(13)] (14) "Sexual assault", as defined under  
81 subdivision (1) of this section;

82 [(14)] (15) "Stalking" is when any person purposely  
83 engages in an unwanted course of conduct that causes alarm  
84 to another person, or a person who resides together in the  
85 same household with the person seeking the order of  
86 protection when it is reasonable in that person's situation  
87 to have been alarmed by the conduct. As used in this  
88 subdivision:

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

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

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

14 of Missouri, such evidence shall be admissible to  
15 demonstrate the need for protection in Missouri.

455.035. 1. Upon the filing of a verified petition  
2 pursuant to sections 455.010 to 455.085 and for good cause  
3 shown in the petition, the court may immediately issue an ex  
4 parte order of protection. An immediate and present danger  
5 of domestic violence to the petitioner or the child on whose  
6 behalf the petition is filed, **or an immediate and present**  
7 **danger to a pet**, shall constitute good cause for purposes of  
8 this section. An ex parte order of protection entered by  
9 the court shall take effect when entered and shall remain in  
10 effect until there is valid service of process and a hearing  
11 is held on the motion. The court shall deny the ex parte  
12 order and dismiss the petition if the petitioner is not  
13 authorized to seek relief pursuant to section 455.020.

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

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

455.045. Any ex parte order of protection granted  
2 pursuant to sections 455.010 to 455.085 shall be to protect

3 the petitioner from domestic violence, stalking, or sexual  
4 assault and may include:

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

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

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

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

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

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

23 (3) Restraining the respondent from communicating with  
24 the petitioner in any manner or through any medium;

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

27 **(5) A temporary order of possession of pets where**  
28 **appropriate.**

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

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

11           (2) Temporarily enjoining the respondent from entering  
12 the premises of the dwelling unit of the petitioner when the  
13 dwelling unit is:

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

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

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

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

26           (3) Temporarily enjoining the respondent from  
27 communicating with the petitioner in any manner or through  
28 any medium.

29           2. Mutual orders of protection are prohibited unless  
30 both parties have properly filed written petitions and  
31 proper service has been made in accordance with sections  
32 455.010 to 455.085.

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

36           (1) Award custody of any minor child born to or  
37 adopted by the parties when the court has jurisdiction over  
38 such child and no prior order regarding custody is pending

39 or has been made, and the best interests of the child  
40 require such order be issued;

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

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

45 (4) Award maintenance to petitioner when petitioner  
46 and respondent are lawfully married in accordance with  
47 chapter 452;

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

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

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

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

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

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

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

72 (12) Order the respondent to pay the cost of medical  
73 treatment and services that have been provided or that are  
74 being provided to the petitioner as a result of injuries  
75 sustained to the petitioner by an act of domestic violence  
76 committed by the respondent;

77 **(13) Award possession and care of any pet, along with**  
78 **any moneys necessary to cover medical costs that may have**  
79 **resulted from abuse of the pet.**

80 4. A verified petition seeking orders for maintenance,  
81 support, custody, visitation, payment of rent, payment of  
82 monetary compensation, possession of personal property,  
83 prohibiting the transfer, encumbrance, or disposal of  
84 property, or payment for services of a shelter for victims  
85 of domestic violence, shall contain allegations relating to  
86 those orders and shall pray for the orders desired.

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

97 6. The court shall grant to the noncustodial parent  
98 rights to visitation with any minor child born to or adopted  
99 by the parties, unless the court finds, after hearing, that  
100 visitation would endanger the child's physical health,  
101 impair the child's emotional development or would otherwise  
102 conflict with the best interests of the child, or that no

103 visitation can be arranged which would sufficiently protect  
104 the custodial parent from further domestic violence. The  
105 court may appoint a guardian ad litem or court-appointed  
106 special advocate to represent the minor child in accordance  
107 with chapter 452 whenever the custodial parent alleges that  
108 visitation with the noncustodial parent will damage the  
109 minor child.

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

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

121 9. (1) The court may, in order to ensure that a  
122 petitioner can maintain an existing wireless telephone  
123 number or numbers, issue an order, after notice and an  
124 opportunity to be heard, directing a wireless service  
125 provider to transfer the billing responsibility for and  
126 rights to the wireless telephone number or numbers to the  
127 petitioner, if the petitioner is not the wireless service  
128 accountholder.

129 (2) (a) The order transferring billing responsibility  
130 for and rights to the wireless telephone number or numbers  
131 to the petitioner shall list the name and billing telephone  
132 number of the accountholder, the name and contact  
133 information of the person to whom the telephone number or  
134 numbers will be transferred, and each telephone number to be

135 transferred to that person. The court shall ensure that the  
136 contact information of the petitioner is not provided to the  
137 accountholder in proceedings held under this chapter.

138 (b) Upon issuance, a copy of the full order of  
139 protection shall be transmitted, either electronically or by  
140 certified mail, to the wireless service provider's  
141 registered agent listed with the secretary of state, or  
142 electronically to the email address provided by the wireless  
143 service provider. Such transmittal shall constitute  
144 adequate notice for the wireless service provider acting  
145 under this section and section 455.523.

146 (c) If the wireless service provider cannot  
147 operationally or technically effectuate the order due to  
148 certain circumstances, the wireless service provider shall  
149 notify the petitioner within three business days. Such  
150 circumstances shall include, but not be limited to, the  
151 following:

152 a. The accountholder has already terminated the  
153 account;

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

156 c. There are geographic or other limitations on  
157 network or service availability.

158 (3) (a) Upon transfer of billing responsibility for  
159 and rights to a wireless telephone number or numbers to the  
160 petitioner under this subsection by a wireless service  
161 provider, the petitioner shall assume all financial  
162 responsibility for the transferred wireless telephone number  
163 or numbers, monthly service costs, and costs for any mobile  
164 device associated with the wireless telephone number or  
165 numbers.

166 (b) This section shall not preclude a wireless service  
167 provider from applying any routine and customary  
168 requirements for account establishment to the petitioner as  
169 part of this transfer of billing responsibility for a  
170 wireless telephone number or numbers and any devices  
171 attached to that number or numbers including, but not  
172 limited to, identification, financial information, and  
173 customer preferences.

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

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

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

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

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

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

8 An immediate and present danger of domestic violence,  
9 **including danger to the child's pet**, stalking, or sexual  
10 assault to a child shall constitute good cause for purposes

11 of this section. An ex parte order of protection entered by  
12 the court shall be in effect until the time of the hearing.  
13 The court shall deny the ex parte order and dismiss the  
14 petition if the petitioner is not authorized to seek relief  
15 pursuant to section 455.505.

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

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

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

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

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

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

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

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

17 (5) **A temporary order of possession of pets where**  
18 **appropriate.**

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

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

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

27 (3) A remaining adult family or household member is  
28 able to care adequately for the child or children in the  
29 absence of the excluded party.

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

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

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

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

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

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

25           (2) Award visitation;

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

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

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

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

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

41           (8) Order the respondent to pay a reasonable fee for  
42 housing and other services that have been provided or that

43 are being provided to the victim by a shelter for victims of  
44 domestic violence;

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

52 (10) **Award possession and care of any pet, along with**  
53 **any moneys necessary to cover medical costs that may have**  
54 **resulted from abuse of the pet.**

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