

FIRST REGULAR SESSION

SENATE BILL NO. 655

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

2581S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 455.040 and 455.516, RSMo, and to enact in lieu thereof two new sections relating to protective orders.

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

Section A. Sections 455.040 and 455.516, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 455.040 and 455.516, to read as follows:

455.040. 1. (1) Not later than fifteen days after the filing of a petition that meets the requirements of section 455.020, a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of domestic violence, stalking, or sexual assault by a preponderance of the evidence, and the respondent cannot show that his or her actions alleged to constitute abuse were otherwise justified under the law, the court shall issue a full order of protection for a period of time the court deems appropriate, and unless after an evidentiary hearing the court makes specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, the protective order shall be valid for at least one hundred eighty days and not more than one year. If, after an evidentiary hearing, the court makes specific written findings that the respondent poses a serious danger

19 to the physical or mental health of the petitioner or of a
20 minor household member of the petitioner, the protective
21 order shall be valid for at least two years and not more
22 than ten years. **Notwithstanding any other provisions of**
23 **this section to the contrary, if the court finds by a**
24 **preponderance of the evidence that the respondent has been**
25 **convicted of or pled guilty or nolo contendere to forcible**
26 **rape under section 566.030, as it existed prior to August**
27 **28, 2013, or rape in the first degree under section 566.030,**
28 **statutory rape in the first degree under section 566.032,**
29 **child molestation in the first degree under section 566.067,**
30 **child molestation in the second degree under section**
31 **566.068, or child molestation in the third degree under**
32 **section 566.069, and the petitioner was the victim of the**
33 **offense, then the protective order shall be made permanent.**

34 (2) Upon motion by the petitioner, and after a hearing
35 by the court, the full order of protection may be renewed
36 annually and for a period of time the court deems
37 appropriate, and unless the court at an evidentiary hearing
38 made specific written findings that the respondent poses a
39 serious danger to the physical or mental health of the
40 petitioner or of a minor household member of the petitioner,
41 the renewed protective order may be renewed periodically and
42 shall be valid for at least one hundred eighty days and not
43 more than one year from the expiration date of the
44 previously issued full order of protection. If the court
45 has made specific written findings that the respondent poses
46 a serious danger to the physical or mental health of the
47 petitioner or of a minor household member of the petitioner,
48 the renewed protective order may be renewed periodically and
49 shall be valid for at least two years and up to the life of
50 the respondent.

51 (3) The court may, upon finding that it is in the best
52 interest of the parties, include a provision that any full
53 order of protection shall be automatically renewed for any
54 term of renewal of a full order of protection as set forth
55 in this section unless the respondent requests a hearing by
56 thirty days prior to the expiration of the order. If for
57 good cause a hearing cannot be held on the motion to renew
58 or the objection to an automatic renewal of the full order
59 of protection prior to the expiration date of the originally
60 issued full order of protection, an ex parte order of
61 protection may be issued until a hearing is held on the
62 motion. When an automatic renewal is not authorized, upon
63 motion by the petitioner, and after a hearing by the court,
64 the second full order of protection may be renewed for an
65 additional period of time the court deems appropriate,
66 except that the protective order shall be valid for any term
67 of renewal of a full order as set forth in this section.
68 For purposes of this subsection, a finding by the court of a
69 subsequent act of domestic violence, stalking, or sexual
70 assault is not required for a renewal order of protection.

71 (4) In determining under this section whether a
72 respondent poses a serious danger to the physical or mental
73 health of a petitioner or of a minor household member of the
74 petitioner, the court shall consider all relevant evidence
75 including, but not limited to:

- 76 (a) The weight of the evidence;
77 (b) The respondent's history of inflicting or causing
78 physical harm, bodily injury, or assault;
79 (c) The respondent's history of stalking or causing
80 fear of physical harm, bodily injury, or assault on the
81 petitioner or a minor household member of the petitioner;
82 (d) The respondent's criminal record;

83 (e) Whether any prior full orders of adult or child
84 protection have been issued against the respondent;

85 (f) Whether the respondent has been found guilty of
86 any dangerous felony under Missouri law; and

87 (g) Whether the respondent violated any term or terms
88 of probation or parole or violated any term of a prior full
89 or temporary order of protection and which violated terms
90 were intended to protect the petitioner or a minor household
91 member of the petitioner.

92 (5) If a court finds that a respondent poses a serious
93 risk to the physical or mental health of the petitioner or
94 of a minor household member of the petitioner, the court
95 shall not modify such order until a period of at least two
96 years from the date the original full order was issued and
97 only after the court makes specific written findings after a
98 hearing held that the respondent has shown proof of
99 treatment and rehabilitation and that the respondent no
100 longer poses a serious danger to the petitioner or to a
101 minor household member of the petitioner.

102 2. The court shall cause a copy of the petition and
103 notice of the date set for the hearing on such petition and
104 any ex parte order of protection to be served upon the
105 respondent as provided by law or by any sheriff or police
106 officer at least three days prior to such hearing. The
107 court shall cause a copy of any full order of protection to
108 be served upon or mailed by certified mail to the respondent
109 at the respondent's last known address. Notice of an ex
110 parte or full order of protection shall be served at the
111 earliest time, and service of such notice shall take
112 priority over service in other actions, except those of a
113 similar emergency nature. Failure to serve or mail a copy
114 of the full order of protection to the respondent shall not

115 affect the validity or enforceability of a full order of
116 protection.

117 3. A copy of any order of protection granted pursuant
118 to sections 455.010 to 455.085 shall be issued to the
119 petitioner and to the local law enforcement agency in the
120 jurisdiction where the petitioner resides. The court shall
121 provide all necessary information, including the
122 respondent's relationship to the petitioner, for entry of
123 the order of protection into the Missouri Uniform Law
124 Enforcement System (MULES) and the National Crime
125 Information Center (NCIC). Upon receiving the order under
126 this subsection, the sheriff shall make the entry into MULES
127 within twenty-four hours. MULES shall forward the order
128 information to NCIC, which will in turn make the order
129 viewable within the National Instant Criminal Background
130 Check System (NICS). The sheriff shall enter information
131 contained in the order, including, but not limited to, any
132 orders regarding child custody or visitation and all
133 specifics as to times and dates of custody or visitation
134 that are provided in the order. A notice of expiration or
135 of termination of any order of protection or any change in
136 child custody or visitation within that order shall be
137 issued to the local law enforcement agency for entry into
138 MULES or any other comparable law enforcement system. The
139 information contained in an order of protection may be
140 entered into MULES or any other comparable law enforcement
141 system using a direct automated data transfer from the court
142 automated system to the law enforcement system.

143 4. The court shall cause a copy of any objection filed
144 by the respondent and notice of the date set for the hearing
145 on such objection to an automatic renewal of a full order of
146 protection for a period of one year to be personally served

147 upon the petitioner by personal process server as provided
148 by law or by a sheriff or police officer at least three days
149 prior to such hearing. Such service of process shall be
150 served at the earliest time and shall take priority over
151 service in other actions except those of a similar emergency
152 nature.

455.516. 1. **(1)** Not later than fifteen days after
2 the filing of a petition under sections 455.500 to 455.538,
3 a hearing shall be held unless the court deems, for good
4 cause shown, that a continuance should be granted. At the
5 hearing, which may be an open or a closed hearing at the
6 discretion of the court, whichever is in the best interest
7 of the child, if the petitioner has proved the allegation of
8 domestic violence against a child by a preponderance of the
9 evidence, the court may issue a full order of protection for
10 at least one hundred eighty days and not more than one
11 year. **Notwithstanding any other provision of this section**
12 **to the contrary, if the court finds by a preponderance of**
13 **the evidence that the respondent has been convicted of or**
14 **pled guilty or nolo contendere to statutory rape in the**
15 **first degree under section 566.032, child molestation in the**
16 **first degree under section 566.067, child molestation in the**
17 **second degree under section 566.068, or child molestation in**
18 **the third degree under section 566.069, and the petitioner**
19 **was the victim of the offense, then the protective order**
20 **shall be made permanent.**

21 **(2)** The court may allow as evidence any in camera
22 videotape made of the testimony of the child pursuant to
23 section 491.699. The provisions of section 491.075 relating
24 to admissibility of statements of a child under the age of
25 fourteen shall apply to any hearing under the provisions of
26 sections 455.500 to 455.538.

27 **(3)** Upon motion by either party, the guardian ad litem
28 or the court-appointed special advocate, and after a hearing
29 by the court, the full order of protection may be renewed
30 for a period of time the court deems appropriate, except
31 that the protective order shall be valid for at least one
32 hundred eighty days and not more than one year from the
33 expiration date of the originally issued full order of
34 protection. The court may, upon finding that it is in the
35 best interest of the child, include a provision that any
36 full order of protection for one year shall automatically
37 renew unless the respondent requests a hearing by thirty
38 days prior to the expiration of the order. If for good
39 cause a hearing cannot be held on the motion to renew or to
40 terminate the automatic renewal of the full order of
41 protection prior to the expiration date of the originally
42 issued full order of protection, an ex parte order of
43 protection may be issued until a hearing is held on the
44 motion. When an automatic renewal is not authorized, upon
45 motion by either party, the guardian ad litem or the court
46 appointed special advocate, and after a hearing by the
47 court, the second full order of protection may be renewed
48 for an additional period of time the court deems
49 appropriate, except that the protective order shall be valid
50 for at least one hundred eighty days and not more than one
51 year from the expiration date of the second full order of
52 protection. If for good cause a hearing cannot be held on
53 the motion to renew the second full order of protection
54 prior to the expiration date of the second order, an ex
55 parte order of protection may be issued until a hearing is
56 held on the motion. For purposes of this subsection, a
57 finding by the court of a subsequent act of abuse is not
58 required for a renewal order of protection.

59 2. The court shall cause a copy of the petition and
60 notice of the date set for the hearing on such petition and
61 any ex parte order of protection to be personally served
62 upon the respondent by personal process server as provided
63 by law or by any sheriff or police officer at least three
64 days prior to such hearing. Such shall be served at the
65 earliest time, and service of such shall take priority over
66 service in other actions, except those of a similar
67 emergency nature. The court shall cause a copy of any full
68 order of protection to be served upon or mailed by certified
69 mail to the respondent at the respondent's last known
70 address. Failure to serve or mail a copy of the full order
71 of protection to the respondent shall not affect the
72 validity or enforceability of a full order of protection.

73 3. A copy of any order of protection granted under
74 sections 455.500 to 455.538 shall be issued to the
75 petitioner and to the local law enforcement agency in the
76 jurisdiction where the petitioner resides. The clerk shall
77 also issue a copy of any order of protection to the local
78 law enforcement agency responsible for maintaining the
79 Missouri uniform law enforcement system (MULES) or any other
80 comparable law enforcement system the same day the order is
81 granted. The law enforcement agency responsible for
82 maintaining MULES shall enter information contained in the
83 order for purposes of verification within twenty-four hours
84 from the time the order is granted. A notice of expiration
85 or of termination of any order of protection shall be issued
86 to such local law enforcement agency and to the law
87 enforcement agency responsible for maintaining MULES or any
88 other comparable law enforcement system. The law
89 enforcement agency responsible for maintaining the
90 applicable law enforcement system shall enter such

91 information in the system. The information contained in an
92 order of protection may be entered in the Missouri uniform
93 law enforcement system or comparable law enforcement system
94 using a direct automated data transfer from the court
95 automated system to the law enforcement system.

96 4. A copy of the petition and notice of the date set
97 for the hearing on such petition and any order of protection
98 granted pursuant to sections 455.500 to 455.538 shall be
99 issued to the juvenile office in the jurisdiction where the
100 petitioner resides. A notice of expiration or of
101 termination of any order of protection shall be issued to
102 such juvenile office.

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

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