

# DOMESTIC VIOLENCE *and the* LAW

*A Practical Guide for Survivors*

THE  
**MISSOURI BAR**  
YOUNG LAWYERS' SECTION



mcdsv  
Missouri Coalition Against  
Domestic and Sexual Violence

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## IMPORTANT RESOURCES

### **National Domestic Violence Hotline**

[800] 799-SAFE [7233] or  
TDD [800] 787-3224  
24-hour chat line:  
[www.thehotline.org](http://www.thehotline.org)

### **National Sexual Assault Hotline - Rape, Abuse and Incest National Network (RAINN)**

[www.rainn.org](http://www.rainn.org)  
[800] 656-HOPE [4673]

### **Missouri Coalition Against Domestic and Sexual Violence [MCADSV]**

*MCADSV can connect you to programs and  
resources throughout Missouri.*

[www.mocadsv.org](http://www.mocadsv.org)  
[573] 634-4161 *during business hours*

### **Missouri Bar Legal Resources Line**

*For attorney services*  
[573] 636-3635

or use the Lawyer Search Tool at  
<http://missourilawyershelp.org/>

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# DOMESTIC VIOLENCE *and the* LAW

## *A Practical Guide for Survivors*

Domestic violence is a pattern of behavior used by one person in a relationship to control the other. It can occur between current intimate partners, former partners, family members or those who are dating. It is a purposeful and complex pattern of harmful physical, sexual, psychological and other abusive behaviors used to control the victim. Domestic violence distorts what is supposed to be a relationship based on mutual respect. One person in a relationship or family does not have the right to control another person. When domestic violence occurs, the abuser and victim no longer share equal rights, responsibilities and decision-making power.

If you are in an abusive relationship, there are resources and people who can help you and your family. Please visit the Missouri Coalition Against Domestic and Sexual Violence website at [www.mocadsv.org](http://www.mocadsv.org) for a list of service providers in the state that provide survivors of domestic and sexual violence with legal advocacy and other resources such as 24-hour hotlines, shelter, counseling and referrals to other agencies for additional help.

You also may call the 24-hour National Domestic Violence Hotline at (800) 799-SAFE (7233) or TDD (800) 787-3224. The Hotline also has a 24-hour chat-line at [www.thehotline.org](http://www.thehotline.org).

*Throughout this publication, the terms “victim” and “survivor” are used to mean the person harmed by domestic violence, sexual violence and/or stalking. Depending on the legal situation, those who commit abuse or violence are referred to as “abusers,” “Respondents,” or “offenders.” An abuser who has been charged with a crime is referred to as the “defendant.”*

## ADDRESSING IMMEDIATE NEEDS

### ***Call law enforcement in an emergency***

If you can get to a phone when you are being harmed or when it is safe afterward, call 911. Law enforcement officers must respond to your call. Once officers have responded, they have an obligation to make a written report if they have a reasonable belief that you have been attacked or abused in some manner. Officers must make an arrest if they reasonably believe the person who harmed or threatened you has violated a protection order. If law enforcement officers return to the same home within 12 hours of a previous call, even if there is no protection order in place, they must arrest the identified abuser when they have a reasonable belief that an assault occurred.

### ***Seek medical assistance***

Seek medical care if you have been physically injured. Some injuries might be more serious than they appear to you or to another person. The hospital or doctor's office will make records of your injuries. You are entitled to a copy of any of your medical records. Medical records are important evidence for either a civil proceeding like an Order of Protection hearing, or for a criminal trial. Pictures of any visible injury, even minor marks, may be especially helpful to you. If your injuries get worse or become more pronounced, such as darkened bruising, it is important to document this with pictures and possibly seek follow-up medical care. You may wish to take pictures for your own proof of harm, even if they have been taken as part of your medical treatment or law enforcement investigation.

### ***Seek support***

You may call a domestic violence program for help if you have been abused or hurt. Advocates at the program can help you through the legal system as well. All of the services you receive at a domestic or sexual violence program in Missouri are free and confidential. If you need to leave your home to get away from the person who is abusing you and need a place to stay, there are resources available to you for safe shelter and other assistance. These agencies and programs can help you even if you do not want to go to a shelter or are unable to leave right now.

If you do not know where your local program is located, the Missouri Coalition Against Domestic and Sexual Violence (MCADSV) website at [www.mocadsv.org](http://www.mocadsv.org) has a map showing where all programs are in the state

and their contact information. You can contact MCADSV at (573) 634-4161 for additional referrals or information during business hours.

You also may call the 24-hour National Domestic Violence Hotline at (800) 799-SAFE (7233) or TDD (800) 787-3224. The Hotline also has a 24-hour chat-line at [www.thehotline.org](http://www.thehotline.org).

Advocates at domestic violence programs can help you develop your own plan for your safety and help you identify your next steps from a range of options and resources. A listing of additional resources to help you starts on page 29.

*Remember, you do not have to go through the legal system by yourself.*

## DOMESTIC VIOLENCE AND THE LEGAL SYSTEM: CIVIL AND CRIMINAL LAWS

The legal system provides two ways to be protected from domestic violence. One is based on civil law and the other on criminal law. Sometimes these two overlap. Both civil and criminal remedies can be useful to you.

“**Civil law**” responses to domestic violence include Orders of Protection. They have a purpose to keep your abuser away from you and to get other types of help because of the domestic violence you have experienced or are afraid might happen again. Orders of Protection are civil court orders issued by a judge. Protection orders are not a part of an abuser’s criminal record. However, it is a crime for a person to violate an Order of Protection that is issued against them.

“**Criminal law**” responses to domestic violence include the arrest and prosecution of the person who has abused you. The purpose of a criminal action is to hold abusers accountable for their criminal actions. The criminal law system involves law enforcement officers, prosecutors or district attorneys, criminal court judges and jail or probation officers.

You do not need to decide between seeking help through the civil legal system or the criminal legal system. You may pursue both remedies for the same incident or ongoing incidents of domestic violence against you.

## CIVIL COURT AND ORDERS OF PROTECTION

The laws that establish Orders of Protection, which are a part of the civil legal process for help in addressing domestic violence, are in Chapter 455 of the Revised Statutes of Missouri (RSMo). In these laws, domestic violence abuses are defined as assault, battery, coercion, harassment, sexual assault or unlawful imprisonment. Assaults might include threats or other offensive behavior. Stalking and sexual assault not related to domestic violence also are covered by this law.

## ORDERS OF PROTECTION CAN BE OBTAINED WITHOUT AN ATTORNEY AND WITHOUT COST TO THE VICTIM

Missouri law allows a victim of abuse, stalking or sexual assault to seek and obtain an Order of Protection without an attorney and without cost. While an attorney is not required to obtain a protection order, sometimes people will hire an attorney to help them through the process. For victims of abuse, this most often happens if the person they are seeking protection from hires an attorney to represent them in the court process for an Order of Protection.

## HOW DOES MISSOURI LAW DEFINE ABUSE, STALKING AND SEXUAL ASSAULT FOR ORDERS OF PROTECTION?

Missouri law on Orders of Protection contains the following definitions of what are considered acts of abuse and threats of abuse. This law is in Section 455.010 RSMo:

1. **Assault:** “Purposely or knowingly placing or attempting to place another in fear of physical harm.” (*Examples are if a person holds a gun to your head or holds a hand up to your face as if they are going to slap or punch you.*)

2. **Battery:** “Purposely or knowingly causing physical harm to another with or without a deadly weapon.” *(Examples include when the person physically hurts you by doing things to you like punching, choking/strangling, hitting, kicking, slapping or by throwing things at you.)*
3. **Coercion:** “Compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage.” *(Examples include when the person uses force or threat of force to make you do something or stops you from doing something you have a right to do.)*
4. **Harassment:** “Engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult or child and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but is not limited to: (a) Following another about in a public place or places; (b) Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity.” *(Examples include when the person does something more than once that frightens, alarms or causes distress to you. This includes threats of violence. The abuser makes you upset or fearful by threatening you by saying things like, “If you leave, I will hurt you,” or “If you tell anyone, I will kill you.” Threats can be more subtle as well and can be threatening to you because you know what the abuser has done in the past. The abuser might threaten to do things such as take the children away, make threats against other family members or pets, or threaten to destroy your home or property.)*
5. **Sexual Assault:** “Causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, duress or with that person’s consent.” *(Examples include when the person makes you have sex when you don’t want to, hurts you during sex, makes you do sexual acts you don’t want to do, has sex with you when you are not awake, or rapes you.)*
6. **Unlawful Imprisonment:** “Holding, confining, detaining or abducting another person against that person’s will.” *(Examples include when the person takes away your car keys so you can’t leave, locks you in a house or room or apartment, won’t let you out of a car, or takes you someplace against your will and keeps you there when you want to leave.)*

7. **Stalking:** “When any person purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person’s situation to have been alarmed by the conduct. As used in this subdivision: (a) ‘Alarm’ means to cause fear of danger of physical harm; (b) ‘Course of conduct’ means a pattern of conduct composed of repeated acts over a period of time, however short, that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact; and (c) ‘Repeated’ means two or more incidents evidencing a continuity of purpose.” *(Examples include when the person repeatedly acts in ways that make you feel frightened, intimidated or emotionally distressed. This can include unwanted communication or contact such as following you, texting or phoning you repeatedly, showing up at your workplace, etc.)*
8. **Child Abuse:** “Any physical injury, sexual abuse or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse.” *(The law provides for protection against violence toward your children as well. If your child has been the victim of any physical injury, sexual abuse or emotional harm by an adult family or household member, or your child’s other parent, you may file for a Child Order of Protection. This includes sexual abuse of children, such as fondling or rape. The abused children do not have to be the children of the person against whom you file an Order of Protection.)*

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## HOW AN ORDER OF PROTECTION CAN HELP PROTECT YOU

A victim of abuse, stalking or sexual assault can seek an Order of Protection from a court without cost and without having to hire an attorney. In the legal process, a person who seeks an Order of Protection is called a “Petitioner” and the person who an Order is sought against is called the “Respondent.”

After you, as a victim of abuse, complete the written request for a protection order, a judge may issue an Order of Protection to order the abuser (the Respondent) to stop abusing, sexually assaulting, harassing or

stalking you (the Petitioner) and require the Respondent to stay away from your home or workplace.

An Order of Protection also can be filed on behalf of a child—a person younger than 17 unless otherwise emancipated—if that child is being abused or is in danger of being abused.

An Order of Protection from Missouri is valid in every other state and should be upheld by law enforcement officers in every state. This also means that if you have an Order of Protection from another state, it is valid in Missouri.

### ***There are two types of Orders of Protection:***

#### **1. EX PARTE ORDER OF PROTECTION**

This is a temporary, emergency order issued by the court to protect you as the Petitioner. It is issued by a judge without a court hearing. Once issued, an *Ex Parte* Order of Protection remains in effect until a court hearing, which is held within 15 days after you file for a protection order. Sometimes there is a delay when either you or the Respondent has “good cause” to ask for the hearing to be rescheduled. This is called a continuance. A continuance also may be granted to give additional time to “serve” the Order. For an Order to be served means a copy of the *Ex Parte* Order of Protection is physically delivered to the Respondent by a law enforcement officer or a special process server. The *Ex Parte* order will remain in effect even if the court hearing is delayed after a continuance request by you, the Respondent or an attorney representing one of you.

#### **2. FULL ORDER OF PROTECTION**

This is the longer-lasting Order that is issued after the judge holds a court hearing. You, or your attorney, must attend that hearing. If you, or your attorney, do not appear for the hearing, your request for the Order of Protection will be dismissed. If the Respondent has been properly served and does not appear for the hearing, a Full Order of Protection will be issued after you have presented your evidence. Your evidence can include your testimony about the threats, harm or abuse you experienced from the Respondent. Evidence can include testimony from anyone who witnessed the abuse, police reports, medical records or records of texts, phone calls and voicemail from the Respondent. During the hearing, both you and the Respondent (or the attorneys, if

you or the Respondent have one) can speak to the judge. During the court hearing, a Respondent can “consent” to the Order of Protection being issued without providing any testimony or evidence for why it shouldn’t be issued.

A Full Order of Protection can be issued for up to one year. On the form for the Order of Protection, Petitioners can check a box to have the Order automatically renewed for another year, or it can be renewed in another way. More details about renewing Orders are on page 17.

## FILING FOR AN ORDER OF PROTECTION

### ***Who can file for an Order of Protection?***

#### **VICTIMS OF DOMESTIC VIOLENCE**

You can file for an Order of Protection for domestic violence if you are 17 years of age or older or otherwise emancipated (if you are younger than 17, your parent or guardian may file for you against a Respondent older or younger than 17), and you are a family or household member as defined by law as follows:

- are the spouse or former spouse of the abuser;
- have a child in common with the abuser;
- are the current or former live-in girlfriend or boyfriend of the abuser;
- are related by blood or marriage to the abuser; or
- have been in a dating relationship with the abuser, defined as a “continuing social relationship of a romantic or intimate nature.”

#### **VICTIMS OF STALKING OR SEXUAL ASSAULT**

You can file for an Order of Protection for stalking or sexual assault if you are 17 years of age or older or otherwise emancipated. For these types of protection orders, the Respondent does not have to be a family or household member.

If you are younger than 17, your parent or guardian may file for an Order of Protection on your behalf. The Order can be against a person

(Respondent) who is older or younger than 17—an example of this would be a dating relationship between two 16-year-olds.

## CHILD VICTIMS OF ABUSE

You can file for a Child Order of Protection if you:

- are the parent or guardian of the victim, a guardian *ad litem* (a court-appointed advocate for the victim) or the juvenile officer; and
- suspect child abuse is occurring.

### ***Where can I file for an Order of Protection?***

You can file for an *Ex Parte* Order of Protection in the circuit clerk's office, located in the county courthouse:

- Where you live;
- Where the alleged abuse occurred; or
- Anywhere the Respondent can be served (where the Respondent lives, works, etc.).

### ***When can I file for an Order of Protection?***

During business hours, you can go to the circuit clerk's office at the courthouse. If it is after business hours or on a holiday, you can call your local police, sheriff's department or domestic violence program to find out where you can fill out a Petition for an Order of Protection. Judges should be on call to issue *Ex Parte* Orders after hours when needed in emergency situations.

### ***What help is available with Orders of Protection?***

The purpose of an *Ex Parte* Order of Protection and a Full Order of Protection is to prohibit the Respondent from abusing, molesting, stalking, communicating with you or disturbing your peace, or entering your home, school or workplace. In each order, the law also allows a judge to include a temporary order of child custody and visitation when appropriate.

In a Full Order of Protection, a judge can include additional specific requirements of the Respondent. These can include orders about child custody, visitation and child support, property division and financial matters, as well as things such as ordering the Respondent to return a pet to you, pay for your medical bills or go to a batterers' intervention program.

If you want specific types of help, you need to request each of them by checking the boxes on the Petition form so the judge can consider your requests. You can add additional requests to your Petition that are not included in the standard boxes on the form. Judges have the ability to order other requests you ask for in your Petition that you believe will help increase your safety from the person harming you.

The descriptions starting on page 33 explain in detail all of the help you may ask for in the Petition for an Order of Protection.

### ***Will my contact information be released in an Order of Protection?***

If you do not feel safe with the Respondent knowing where you live, or if you have moved to a new address unknown to the Respondent, you have the right to request that your address not be disclosed in the court documents. You also can ensure your address is not revealed in public records by applying for the Safe at Home program through the Secretary of State's office. This program allows you to establish a post office box in Jefferson City that is not part of any public record. The Secretary of State will receive all mail sent to you, then forward the mail to your actual address. You can get more information by calling the toll-free number for the Safe at Home program at (866) 509-1409, or go to the website at [www.sos.mo.gov](http://www.sos.mo.gov).

### ***Safety planning when seeking an Order of Protection***

Survivors and their children may face increased danger when they leave their abusive partners or seek assistance from law enforcement officers, the court system or social service providers. As a result, it is very important to create a safety plan that is specific to your situation.

You are the expert on your situation and have been using all of your skills to cope with abuse against you so far. The decision to leave an abusive relationship or seek a protection order for abuse, stalking or sexual assault is complicated because the person who harmed you might try to retaliate against you.

There is a risk that the threats, abuse or violence might get worse as you try to get help from the legal system, and you can prepare for that with safety planning.

However, it is important to remember that people do escape the violence in their lives all the time. Friends, family and a network of service providers within a supportive community can be a big help to you if you

choose to make the difficult decision to leave your abuser. Before you make the decision to leave or to file for an Order of Protection, you should consider making your own personalized safety plan.

The Personalized Safety Plan on page 37 is a tool to help you identify and evaluate your options and create a personalized plan to reduce your risk of being harmed again by the person hurting you. Use what applies or change it to reflect what you need in your situation. There is no right or wrong way to develop a safety plan, and it does not have to be written down.

### ***How do I begin the process to get an Order of Protection?***

The chart on page 46 provides a quick overview of the procedure for obtaining an Order of Protection. Here is some basic information for starting the process of getting a protection order:

**1. Go to the circuit clerk's office at the courthouse.**

The process for getting an Order of Protection begins with going to the circuit clerk's office in the county courthouse and filling out a written application form, called a Petition for Order of Protection. This form is available at the circuit clerk's office. Missouri law requires that court clerks explain how to file all of these necessary forms and documents. In addition, domestic violence program advocates and staff in some circuit clerk's offices can assist you in the process for filing for an Order of Protection. Domestic violence program advocates often can go with you to court.

**2. You do not need to pay for an Order or have an attorney to get one.**

There is no filing fee, court cost or bond required to file for an Order of Protection; it is free. You do not need a lawyer to obtain an Order of Protection. However, if you decide you want an attorney (for instance, if you are concerned about going to court alone or the Respondent has hired an attorney), you may contact the **Missouri Bar Legal Resources Line at (573) 636-3635**. The Missouri Bar also offers a **free Lawyer Search function at <http://MissouriLawyersHelp.org>**. If you cannot afford an attorney, you may contact the Legal Services or Legal Aid offices in your area. If they cannot represent you, many Legal Services offices have a list of volunteer attorneys to represent you for free or at a reduced cost. **Legal Services and Legal Aid offices** around the state are included in the resource section of this Guide, which starts on page 30.

**3. Bring any documentation you have of abuse against you.**

When you go to the courthouse to fill out the Petition for an Order of Protection you should bring any documentation or proof that the

abuse occurred. This includes pictures of injuries, law enforcement reports and/or medical records, and screen shots of threatening texts or email, etc.

### ***How do I fill out the proper forms for an Order of Protection?***

**1. Write down the most recent abuse incident against you, the worst incident and history of abuse.**

When you describe the domestic violence, abuse, stalking or sexual assault against you in the Petition for Order of Protection form, start first with the most recent episode of violence or threats of harm, next write the worst or most frightening incident(s) and then go back in time with each violent episode and the frequency of the episode(s).

**2. Be specific about what you experienced.**

It is extremely important that you are very specific about the abuse, describing in detail what the abuser did to you physically and/or emotionally. If you know the exact dates of the abuse, you should include them in the Petition. For example, do not just write, “He hurt me.” Instead write, “On \_\_\_\_\_ (insert date only if you know for sure) he grabbed me, punched me in the face and pushed me very hard against our bedroom wall.” If the person called you names, write down the exact names he or she called you so the judge can see specific examples of the emotional abuse. In many jurisdictions, you can add additional sheets of paper if there is not enough space. You can ask the clerk for additional pieces of paper.

**3. Describe any injuries and provide documentation if you can.**

If the violence has caused any injuries, you should describe your injuries in detail and tell the judge if you sought medical help and if you have any documentation such as pictures, medical or law enforcement records. If you have documentation of the abuse, you should attach that to the Petition. If the Respondent is violent while using alcohol or illegal drugs, write that in the Petition and remind the judge about those details in your court hearing. Make sure to list any threats or other factors that cause you to believe the abuser is becoming more dangerous, including if the abuser has guns.

**4. Tell the judge why you are afraid now.**

If you are afraid of the Respondent, it is very important to write on the Petition that you are afraid and explain in detail what makes you feel that way. After reading your Petition, the judge will either grant or deny you an *Ex Parte* Order of Protection. This initial decision is made solely on the basis of what you have written in the Petition. With

an emergency *Ex Parte* Order of Protection, the judge usually will not meet with you or listen to your evidence. If the judge does want to meet with you to get more information, it will be informal, and he or she might ask you more questions in the courtroom or in an informal interview in the judge's office.

**5. Ask for the specific help and protection you need.**

There are boxes printed on the Petition form that you can check to ask the judge for specific protections and help. You also may ask for additional things to be included in the order. This can be about having property or pets returned to you, or to have the Respondent turn in guns or other weapons that have been used to harm or threaten you.

***What happens after the judge reads my Petition for an Ex Parte Order?***

If a judge finds that there is current danger of abuse against you, an *Ex Parte* Order will be granted. If the *Ex Parte* Order is granted, a copy of the Order is given to a local law enforcement agency and entered into a statewide computerized records system used by law enforcement officers (police and sheriffs' deputies). This is called the Missouri Uniform Law Enforcement System (MULES). Law enforcement officers can use the MULES system to confirm that an Order of Protection was issued by a Missouri court.

**1. Service of the *Ex Parte* Order on the Respondent**

An *Ex Parte* Order takes effect and is valid and enforceable when it is entered. It remains in effect until properly served on the Respondent and until there is a full hearing on the allegations.

After a judge grants an *Ex Parte* Order, a law enforcement officer will try to serve it on the Respondent or the Respondent's custodial parent or guardian if the Respondent is younger than 17. If law enforcement cannot find the Respondent, your petition may be dismissed.

You may ask the judge to continue your case to give law enforcement more time to serve the Respondent. If the Respondent still cannot be served, you may request the court to appoint a private process server called a "special process server." Special process servers charge a fee and you would need to request in writing to the court for one be appointed. If you decide to do this, you may ask the clerk in your courthouse for a form.

## 2. Notification the Respondent has been served

When you file your Petition, a staff member in the circuit clerk's office should tell you about options to receive notification that the Order has been served on the Respondent. This can include how to call local law enforcement offices and how to enroll in the Missouri Victims Automated Notification System, known as MOVANS. If you enroll in MOVANS, you can get a phone call or text to let you know the Respondent has been served with the *Ex Parte* Order. You can find out more information about MOVANS by calling the Missouri Department of Public Safety at (866) 334-6682 or go to the website at [www.dps.mo.gov/dir/programs/cvsu/movans.php](http://www.dps.mo.gov/dir/programs/cvsu/movans.php). MOVANS also will notify you about upcoming court dates and if the person who harmed you is jailed or released from jail.

## 3. Calling law enforcement for violations of protection orders

If you have an *Ex Parte* Order, you can call the police or sheriff's office if the Respondent attempts to contact you. Missouri law requires that law enforcement officers must arrest a Respondent who has notice of the *Ex Parte* Order and violates the Order. Prosecutors might not be able to file charges if the Respondent didn't know about the *Ex Parte* Order because they were not physically served a copy. If you have information that your abuser knew or was aware of the *Ex Parte* Order before the violation, it is important to tell law enforcement about the abuser's prior knowledge (for instance, if a family member or friend has told the Respondent about the *Ex Parte* Order).

## **What if the judge refuses to grant an *Ex Parte* Order of Protection?**

If the judge does not grant you an *Ex Parte* Order of Protection and you are eligible to file for one, you still will be given a court date within 15 days for a hearing on the Full Order of Protection. You will have an opportunity at that hearing to prove your case to the judge to receive a Full Order.

## COURT HEARINGS ON FULL ORDERS OF PROTECTION

The hearing for a Full Order of Protection will be held within 15 days after you get your *Ex Parte* Order and the Respondent has been served with a copy of that Order. The abuser must be served at least three days prior to the hearing date. If the papers are not served to the Respondent by that time, ask the judge or the judge's clerk to extend the *Ex Parte* Order and schedule another court date. This is called a continuance. You may always ask the judge to grant you a continuance for other reasons, like to get an attorney, find a witness, etc. It will be up to the judge to decide whether to grant your request. If it is granted, the *Ex Parte* Order of Protection remains in effect until the new court date.

Most days when Order of Protection hearings are scheduled in court, a judge will have many cases to hear and you might have to wait for your hearing.

During the hearing on the Full Order of Protection, after you and the Respondent have presented all of your evidence, the judge will decide what type of help and specific orders he or she should include in the Full Order of Protection. It might be the same as what was ordered in the temporary *Ex Parte* Order.

### ***How should I prepare for the court hearing on the Full Order of Protection?***

**1. Gather records, documents and any witnesses to the abuse to use as “evidence.”**

You do not have to have proof of injuries or witnesses to the abuse against you for the court hearing—*your sworn testimony in the hearing might be all the evidence you need to get an Order of Protection*. If you do have documentation, bring to the court hearing as much evidence of the abuse or violence as you can safely get, such as pictures, screen shots of texts or emails, medical reports, police reports, damaged property and torn clothing. If they are available for the hearing, try to bring any witnesses who have seen or heard the abusive behavior against you.

**2. Know what you want to say to the judge about why you are still afraid of the abuser.**

It can help to be prepared to describe to the judge in detail what you wrote in your Petition about what has happened to you and why you

are still afraid of the abuser now. If the Respondent threatened you with violence, tell the judge why you believe the threat and why it makes you afraid that you are in danger. Tell the judge about the most recent, the most violent and the most frightening episodes of domestic violence, stalking or sexual assault.

**3. Ask for the specific help and protection you need.**

It can help to make a list of all of the protections you want in the Order. You can request specific court orders that allow only limited types of contact with the Respondent. For instance, you can ask that someone other than you be involved in taking your child(ren) for visitation with the Respondent. If your circumstances have changed or if you have changed your mind since you filed the Petition, you may be able to change the type of help you request in the Order.

**4. A judge might ask you to agree to a “Consent” Order of Protection without a hearing.**

Be aware that before you have an opportunity to testify or present evidence in the hearing for your Order of Protection, the judge might ask you and the Respondent if you both want to agree to the entry of a Full Order of Protection without conducting a hearing. If the Order of Protection is granted this way, it is called a Consent Order of Protection. If you and the Respondent agree to a Consent Order of Protection, the Respondent does not admit he or she has done anything wrong but consents to an Order being issued stating that he or she will stay away from you while the Order is in place. If there are any issues you and the Respondent disagree about, such as child custody or support, there must be a full hearing. If you agree to a Consent Order, there will be no evidence presented to the judge that the Respondent abused, threatened or harmed you, and there will be no court record made of the abuse. This could be a drawback if there needs to be further legal action taken in the future, such as a divorce or child custody case.

**5. Be aware that your abuser or his/her lawyer can ask you questions during a hearing.**

The judge will allow both you and the Respondent to speak during the hearing. Try to keep calm when you ask or answer any questions. Know that the Respondent will probably use this time to contradict what you say in your testimony. Some of the things he or she says in court may hurt you or make you mad. Try to not get openly upset if the abuser contradicts what you say and try to remain as calm as possible. It is important to not argue with the Respondent in court.

Most judges have held many protection order hearings and have experience with contradictions in the testimony presented.

## **6. The judge decides at the end of the hearing to grant or deny the Order of Protection.**

If you have successfully proved your case of abuse, stalking or sexual assault, the judge will issue the Full Order of Protection. The judge may include everything you asked for in the Order or only include some of those requests. Typically, a judge will order that the Respondent not assault or attempt to assault you; not harass, intimidate, stalk or follow you; and not go to your residence, workplace or your children's school. The Order might require that the Respondent stay a certain distance away from you, wherever you are. The judge may order that you be provided with other help, such as granting temporary child custody and visitation, child support, temporary maintenance payments, assistance with rent or mortgage payments or possession of certain property or pets.

## ***How long does a Full Order of Protection stay in effect?***

A Full Order of Protection lasts a minimum of 180 days and a maximum of one year.

## ***Can I renew a Full Order of Protection?***

There are two ways you can ask for your Full Order of Protection to be renewed. You can renew the Order twice. Each renewal can last a maximum of one year. You do not have to have experienced new instances of abuse, threats or violence for the renewals.

### **1. Check the automatic renewal box on your Petition.**

You may request an automatic renewal for an Order of Protection by checking the renewal box on the Petition. The Respondent must request a hearing 30 days prior to the expiration of the Order to potentially prevent the automatic renewal.

### **2. Ask the judge to renew the Order before it expires.**

If you do not request an automatic Order renewal on your Petition, you still may go back to the court before the Order of Protection expires and request to renew the order. This should be done at least two weeks before it expires. You can ask the staff at the court clerk's office in the courthouse for help in further explaining how you can seek a renewal of your Order. However, it is important to note that for a renewal to be granted, you, as the Petitioner, must show that you would be in danger if the Order is not renewed.

If the Order is not renewed and it expires, you will have to file a new Petition for an Order of Protection, with new allegations of abuse, and go through the legal process again.

### ***Important things to remember after the Order of Protection is issued***

#### **1. Keep your Order with you.**

Once you obtain a Full Order of Protection, make copies of it if possible and keep one copy with you. Local law enforcement agencies must keep copies of these Orders on file, but you should keep a copy in a purse, at home, at work, in your car or another safe place near you. This is so you can show law enforcement officers you have an Order of Protection if the Respondent violates it. Part of your safety plan can include giving copies of your Full Order of Protection to someone in places that you or your children go on a regular basis, such as your workplace, church, childcare or school.

#### **2. You cannot “violate” your own Order of Protection.**

Legally you cannot violate an Order of Protection that you have against someone else. The judge has ordered the Respondent to comply with the requirements in the Order of Protection—the judge’s order is not against you. However, if you have any voluntary phone, email or personal contact with the Respondent, the court or law enforcement officers might interpret that contact as proof that you are not afraid of the person who has abused or harmed you. This can make it very difficult to renew or enforce the Order. If you feel you must have contact with the Respondent, you may be better off if you make contact through another person or in public settings for safety reasons. You also might want to request the judge order the Respondent to communicate with you only at certain times and in certain ways. For example, if you have children together you could request the judge order the Respondent to contact you regarding the children only on certain days through text messaging.

### ***What happens to my protection order if there also is a divorce or child custody case?***

Other legal cases should not end all of the provisions of your Order of Protection. If you have any current child custody, visitation, child support and/or maintenance orders when you are granted an Order of Protection, they will stay in effect during the duration of the protection order unless another custody order is entered in another court. Later, if you get a divorce or paternity judgment against the Respondent, and

custody, visitation or child support is ordered, the portion of your Order of Protection that deals with custody, visitation, support or maintenance will no longer be valid. Remember, the parts of your Order of Protection that prohibit the Respondent from harming you will remain in effect. You may ask your attorney or the judge about this. So, even if you get a divorce or paternity order, *if you are still afraid of your abuser, you should not dismiss your Order of Protection.*

### ***How do I get the Order of Protection enforced?***

If the Respondent violates the Order of Protection in any way, you have criminal and civil options to have the Order enforced. Different options might be available to you in different parts of the state and court jurisdictions, so you should contact your local court or domestic/sexual violence program to find out all options available to you. Regardless of what remedies are available to you, if it is safe to do so, it is important you keep your own record or log of the violations committed by your abuser. This will be helpful to prosecutors, civil lawyers and judges in determining how to respond to the violations of your Order of Protection.

### **CRIMINAL ENFORCEMENT**

A violation of an Order of Protection is a criminal offense, and you should contact law enforcement immediately if the Order has been violated. The Respondent can be arrested and prosecuted for certain crimes such as: if he or she continues to abuse you, contact you, frighten or stalk you; if any provision of the child custody order is ignored; if he or she enters your residence or place of employment or school; or goes within a certain distance of you or your child. If the violation involves the Respondent's failure to surrender custody of the children to you as ordered by the judge, he or she can be arrested and the children turned over to you.

### **CIVIL ENFORCEMENT**

You are allowed to file a Motion for Civil Contempt when the Respondent has violated the Order of Protection. These are violations that do not include abusing you, but are violations by the Respondent when he or she has not complied with other provisions that are not enforced by law enforcement. For example, when your Order of Protection requires the Respondent to pay child support and maintenance, but you were not paid. After the Motion for Civil Contempt is filed, a court date for a hearing will be scheduled. On the court date, if the Respondent doesn't have a good reason for disobeying the Order of Protection, the judge can find him or her in contempt of court that day. That means the judge can jail the Respondent until he or she does what he or she was supposed to

do (for example, pay all past due child support) or the judge can fine him or her an additional amount as punishment. Not all courts hold regular contempt hearings, but filing for contempt should always be available upon the request of the Petitioner. Filing a motion for contempt usually requires an attorney.

## LAW ENFORCEMENT RESPONSES TO DOMESTIC VIOLENCE

If you are a victim of domestic violence you can call local law enforcement for help, whether or not you have an Order of Protection.

Missouri law requires law enforcement officers to apply the same standard for response to an alleged incident of abuse or violation of an Order of Protection as they would for any crime involving strangers. The law instructs law enforcement officers that their role is to protect victims of domestic violence from continuing abuse.

### ***What should happen when I call law enforcement for help?***

**1. Tell the 911 dispatcher if you are still in danger when you call.**

When responding in an emergency situation, law enforcement might take a few minutes to get to you. If you are afraid, it is important to tell the 911 dispatcher of your fear and the reasons for it. If you can, you should tell the dispatcher any other safety concerns you have and whether the abuser has any guns or other weapons.

**2. Officers are required to identify who is the abuser, not arrest both people after a call for help.**

When law enforcement officers arrive after you have called for help, if both you and the person who has hurt you tell the officers that you were assaulted, the officers are not required to arrest both of you. Law enforcement officers are supposed to identify the person who is the most significant aggressor. This is called the “primary physical aggressor.” To make this determination, Missouri law instructs law enforcement officers to examine the comparative extent of the injuries to both parties, to identify who has made serious threats to the other person that created a fear of physical injury, and to find out the history of domestic violence between the people involved.

**3. Officers should investigate, gather evidence and take pictures of injuries.**

After responding to your call and identifying the primary physical aggressor, the officers should conduct a thorough investigation and look for evidence or other proof of the abuse. You should show them any bruises or other injuries you have and any torn or bloody clothing, broken items or any other signs or indications of the abuse, if there are any. Officers should take pictures of any physical signs of abuse. You should tell the officer if anyone saw or heard part of the present or past abuse against you or another member of your household. If possible, you should give the officer names and phone numbers of these witnesses. If the abuser has violated an Order of Protection, tell the officers and show them a copy of your Order so they can arrest the abuser for violating the Order. Try to keep your original Order in case you need to show it to law enforcement again later. You also should show the officers a copy of separation, child custody or divorce papers, if there are any.

**4. You have the right to ask officers to gather evidence if they don't do so.**

If the responding officers do not conduct a thorough investigation, you have the right to ask them to take pictures of your injuries and to contact witnesses, etc. You may ask for the responding officer's name and badge number so he or she can be a witness for you in any civil or criminal proceeding you may bring against your abuser. Write this information down. You may wish to use this information to thank law enforcement for their work later. Alternatively, if the law enforcement officers who responded did not conduct a proper investigation, you can use their badge numbers if you decide to file a complaint.

***What if a law enforcement officer doesn't make an arrest after I call for help?***

If a law enforcement officer responds to a domestic violence call, and the officer believes there has been an assault (which includes a threat to commit physical harm), and does not make an arrest, the officer is required to make a written report of the incident. That report, by law, has to completely describe the offender, include the victim's name, time of call, address, the reason why no arrest was made and any other pertinent information.

Missouri law requires that if a law enforcement officer is again called to the same address within 12 hours and believes the same offender has again committed an assault or abuse against you or any other family member, the

officer must arrest the offending party. The report from the first response may be considered as evidence of the abuser's intent to commit the abuse.

### ***What other assistance can I get from law enforcement agencies?***

#### **1. Information and referrals**

Law enforcement officers are trained to know about local services and should be able to tell you the locations for the closest services for domestic violence or sexual assault victims. If you are hurt or need food, clothing or counseling, law enforcement can direct you to an appropriate community resource. Law enforcement agencies might have established domestic violence response teams or individual officers trained to deal with domestic violence or sexual assault situations. These teams or individuals might be aided by shelter or rape crisis advocates, social workers, ministers or other persons trained in counseling or crisis intervention who can provide you with help and support.

#### **2. Transportation**

Law enforcement officers at the scene of a domestic violence incident are required by law to provide or arrange transportation for an abused person to a medical facility for treatment of injuries or to a place of shelter or safety [Section 455.080 RSMo].

#### **3. Getting your personal belongings**

If you left your home after a domestic violence incident, and you need to get belongings from your home, the law enforcement officers can and should escort you back to that residence. If you do not want to return to stay in your home but decide to file for an Order of Protection, you can ask the judge to include a specific provision in the Order allowing you to safely get your household goods and other personal things you need from your home.

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## RESPONSES TO DOMESTIC VIOLENCE THROUGH THE CRIMINAL LEGAL SYSTEM

The purpose of a criminal action is to hold abusers accountable for their criminal conduct. The criminal legal system involves: law enforcement officers, who arrest those who commit crimes; the prosecutor/district attorney, who files charges and prosecutes criminal cases against those

accused of crimes; the judge, who presides over criminal cases; probation officers who monitor offenders convicted of crimes; and corrections or jail officials, who incarcerate sentenced offenders.

## CONSIDERATIONS FOR PARTICIPATION IN THE CRIMINAL LEGAL SYSTEM

### **1. Contact a domestic violence program to talk through your options.**

It is normal to be apprehensive about participating in a criminal prosecution, even if you want the person who harmed you to be held accountable. It also is normal to want the abuse against you to stop, but to decide you do not want to participate in the criminal legal system. Talking with an advocate from a domestic violence program can help you decide the best plan for you. You can find the program closest to you on the website of the Missouri Coalition Against Domestic and Sexual Violence (MCADSV) at [www.mocadsv.org](http://www.mocadsv.org).

### **2. Develop a safety plan.**

If you make the decision to do so, you have the right to report crimes committed against you and to participate in a criminal court process against the person who victimized you. Before taking these steps, however, it is important to have a safety plan in place to protect you and your children during this process. If your abuser was arrested, and a criminal case is filed, he or she will likely be released before there is a hearing on the case. If you sought an Order of Protection during this time, there might also be a period of time before your abuser is served with an Order of Protection.

You want to make sure you are protected while waiting for a criminal trial. If you are not sure of the range of options to keep you and your family safe during this time, advocates at your local domestic or sexual violence program can help you make a safety plan. You can use the Personalized Safety Plan on page 37 to create your own plan.

### **3. You can change your mind about participating in a criminal case against your abuser.**

If you initially decide you want to participate in the prosecution of a criminal case against the person you abused you, you can later change your mind if you are afraid or for any other reason. Be aware, however,

the prosecutor may decide to go forward with the case and prosecute the person who abused you even if you request the charges be dropped. You also may be subpoenaed and legally required to testify in the case.

## HOW DO I PREPARE FOR INVOLVEMENT WITH THE CRIMINAL LEGAL SYSTEM?

Becoming involved with the criminal legal system and going through a criminal trial as a victim of crime is a long and difficult process. Safety planning will be important. Part of your safety plan may include taking care of your emotional well-being with the help of a victim advocate, counselor, support group, or with supportive family, friends or your faith community.

### **1. There are two ways to report a crime against you:**

#### **a. Report a crime to law enforcement.**

As a victim of domestic violence, stalking or sexual assault, you can make a criminal report to law enforcement. The report of the crime against you from a law enforcement agency will be reviewed by the prosecutor.

#### **b. Report a crime to a prosecutor's office at the courthouse.**

If a law enforcement agency did not make a report of the crime committed against you, you might need to go to the prosecuting attorney's office to make sure a complaint is filed. You will need to describe to the prosecutor what happened to you, and you can bring any witnesses to the domestic violence and any evidence of injury or abuse, such as pictures, torn or blood-stained clothes, damaged property and medical reports. Upon hearing your statement, the prosecuting attorney's office will decide whether to bring criminal charges and prosecute the person who harmed you. This could result in the issuance of a criminal summons or a warrant. The prosecuting attorney might still issue a criminal summons or warrant even if you do not have physical evidence of abuse.

### **2. Learn about the role of the prosecuting attorney or district attorney.**

As a victim of crime, you cannot "file charges" against the person who has committed a crime against you. It is the role of the prosecuting attorney (called the district attorney in some Missouri cities) to file criminal charges against an abuser who, if charged, becomes

the defendant. Prosecuting attorney's offices have employees called "victim-witness advocates" who should keep in contact with you before the trial date to discuss the case and the evidence of the crime against you. If there are any witnesses to the abuse or violence against you that the prosecutor does not know about, you can inform that advocate or other staff in the prosecutor's office about these witnesses. It also is important to let the prosecuting attorney know if the defendant attempts to contact you after charges are filed and during the time the case is pending. This contact may be important evidence in the case and might result in additional charges being brought against the defendant.

**3. Learn about your rights.**

Victims of crime in Missouri are guaranteed certain rights about their participation in the criminal legal system. For instance, you have the right as a victim of domestic violence to be kept informed of any court dates. To find out more about crime victims' rights, you may contact your local prosecuting attorney's office, the Missouri Attorney General's Office, at (573) 751-1338, or the Missouri Department of Public Safety Crime Victim Services Unit, at (866) 334-6682. You also may read the Missouri Victims' Rights laws in Chapter 595 RSMo. available online at [www.revisor.mo.gov](http://www.revisor.mo.gov).

**4. Ask about options to protect you from retaliation from your abuser for testifying in court.**

If you are worried about retaliation and harm to you if you testify in a criminal case as a witness against the person who harmed you, tell the prosecutor or the prosecutor's victim advocate about your fears. You can ask if the prosecutor will issue a subpoena that legally requires you to come to court and testify. This can be a form of protection so that the abuser learns that you had no choice about whether or not to testify in court. A prosecutor also can ask the judge to issue a "stay away" order that so that if your abuser contacts, harms or threatens you before a trial, he or she can have their bail or bond revoked or possibly be jailed until the trial.

**5. A criminal case can be filed even if you don't want to participate in a trial.**

If you decide you do not want the prosecutor to file criminal charges against the abuser, and you do not want to testify, the prosecutor may still move forward with the case. Once a criminal case has begun, it is up to the prosecutor to decide whether or not to drop the charges. Even if you don't want to testify, a prosecutor can issue a subpoena

to require a person to come to court and testify in a criminal trial. Missouri law does, however, give a married person the right to not testify against his or her spouse [Section 546.260 RSMo], but a spouse can “waive” that privilege and testify.

**6. Criminal case prosecution can take a long time.**

Criminal cases are routinely continued for several weeks or even months to allow the defendant to hire an attorney or to subpoena witnesses. While waiting for a trial, staying in touch with staff in the prosecutor’s office will help you be prepared for the trial in which you will be called to testify. Contact the prosecuting attorney’s office for information to help you keep track of the scheduled date for the case and any changes to the dates of hearings or trial date. Make sure to contact that office before the scheduled date to determine whether or not you need to be present in court. Again, you can gain support and assistance through this long process from local domestic violence programs.

**7. Ask an advocate or other trusted friend or family to come to court with you.**

It can be frightening or intimidating to face the person on trial for hurting you. You might find it helpful to ask a friend, family member or domestic violence program advocate to be a support person(s) for you in the courtroom. Having a supportive person with you will help remind you of your strength during the stress of a trial. Remember that if you do not appear on the day scheduled for a preliminary hearing or trial, your case may be dismissed.

**8. Learn about criminal charges and their penalties.**

It can be helpful for you to know and understand the criminal charges against the person who has abused or harmed you. There are detailed descriptions of the criminal offenses most often committed as aspects of domestic violence beginning on page 52.

When the defendant is found guilty after a trial or pleads guilty to a criminal offense, the punishment will depend on the criminal charges filed and the circumstances of the case. A judge will issue the sentence, but will consider the prosecuting attorney’s recommendations as well as other factors, such as whether the defendant previously committed a similar crime. If there is a jury trial, the judge may be limited by the jury’s recommendation. For most convictions of felony-level crimes, the sentence includes a prison term. A defendant found guilty of a misdemeanor-level crime might receive a suspended sentence, a fine and/or probation. Depending on the circumstances of the case, you

may want to ask the court to order the defendant to participate in what is called a batterer intervention program, obtain substance abuse counseling and/or to stay away from you and your family.

**9. Report any additional crimes or threats against you after your abuser is convicted.**

If the defendant contacts you or abuses you again after being found guilty of a crime against you, report the contact or abuse to law enforcement as soon as safely possible so that an investigation will be conducted. You also can report the violation directly to the prosecutor and/or the defendant's probation officer if the defendant is on probation for this or another kind of charge. You should not assume the probation officer or prosecutor will be automatically notified of the new activity just because it has been reported to law enforcement.

## DOMESTIC AND SEXUAL VIOLENCE CRIMES

### DOMESTIC ASSAULT

Domestic assault occurs when the assault is against a family or household member, against a person who has a child in common with the abuser, or against an adult who is or has been in a dating relationship with the abuser. There are several different offenses of domestic assault. For a detailed description, see page 52, or go to [www.revisor.mo.gov](http://www.revisor.mo.gov) to read the domestic assault laws in Chapter 565 of the Missouri Revised Statutes.

### RAPE AND SEXUAL ASSAULT

Sexual assault is a physical act of sexual violence. Sexual assault may be used to describe specific criminal offenses of rape, sodomy, incest or molestation. Sexual assault may occur between spouses or intimate partners. There are many different types and degrees of sexual offenses. For a detailed description, see page 54, or go to [www.revisor.mo.gov](http://www.revisor.mo.gov) to read the rape and sexual offenses laws in Chapter 566 of the Missouri Revised Statutes.

### STALKING

Stalking occurs when a person disturbs or follows you, more than once, and causes you to be frightened, intimidated or emotionally distressed. The person can do many things that would be considered stalking: following you, writing or sending you frightening emails, hiding and

watching you, calling you offensive names, breaking into your computer, threatening your safety, the safety of your family, or household members or even your pets or livestock. To be considered stalking, the offense must occur more than once, showing a “course of conduct.” For a detailed description, see page 59, or go to [www.revisor.mo.gov](http://www.revisor.mo.gov) to read the stalking laws in Chapter 565 of the Missouri Revised Statutes.

## **HARASSMENT**

Harrassment occurs when a person engages in any act with the purpose to cause emotional distress to another person. The legal definition of harassment is very broad. For a detailed description, see page 61, or go to [www.revisor.mo.gov](http://www.revisor.mo.gov) to read the harassment laws in Chapter 565 of the Missouri Revised Statutes.

## NUMBERS AND WEBSITES TO KNOW

### **Crime Victims' Compensation**

*This program will reimburse victims of crime (those who have reported the offense to law enforcement) by paying for reasonable medical and counseling expenses as well as lost wages.*

[www.dps.mo.gov/dir/programs/cvcl](http://www.dps.mo.gov/dir/programs/cvcl)  
(573) 526-6006

### **Department of Public Safety Crime Victim Services Unit**

*Staff in this state department can assist victims who have difficulty gaining access to services or who believe their rights as crime victims have been denied.*

[www.dps.mo.gov/dir/programs/cvsu](http://www.dps.mo.gov/dir/programs/cvsu)  
(866) 334-6682

### **The L.E.A.D. Institute**

*Resources for D/deaf and Hard-of-Hearing and Late Deafened individuals*  
(573) 445-5005, for video and TTY  
(800) 380-DEAF, for video and TTY  
Text HAND to 839863

### **Missouri Attorney General's Office**

*The Victim Services and Legal Support Unit provides assistance to crime victims to help them understand their options.*  
(573) 751-1338

### **Missouri Bar Legal Resources Line**

(573) 636-3635  
Lawyer Search Tool  
<http://missourilawyershelp.org>

### **Missouri Coalition Against Domestic and Sexual Violence (MCADSV)**

*MCADSV can connect you to programs and resources throughout Missouri.*  
[www.mocadsv.org](http://www.mocadsv.org)  
(573) 634-4161

### **Missouri Office of Prosecution Services (MOPS)**

**Victim Advocate/Coordinator**  
*Staff at this office provide direct services to crime victims, working with prosecutors to inform crime victims about their rights, and assisting victims with filing for financial reimbursements from the Crime Victims' Compensation fund.*  
(573) 751-0619

### **Missouri Victim Automated Notification System (MOVANS)**

*Those with Orders of Protection or who are crime victims can enroll in this automated notification system that will send an email or a text notice to registered users whenever there is a change in an offender's incarceration, court status or the status of a protection order.*  
[www.dps.mo.gov/dir/programs/cvsu/movans.php](http://www.dps.mo.gov/dir/programs/cvsu/movans.php)

### **National Center for Victims of Crime, Stalking Resource Center**

[www.victimsofcrime.org](http://www.victimsofcrime.org)  
(202) 467-8700

### **National Domestic Violence Hotline:**

(800) 799-SAFE (7233) or  
TDD (800) 787-3224  
24-hour chat line: [www.thehotline.org](http://www.thehotline.org)

### **National Sexual Assault Hotline - Rape, Abuse and Incest National Network (RAINN)**

[www.rainn.org](http://www.rainn.org)  
(800) 656-HOPE (4673)

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## NUMBERS AND WEBSITES TO KNOW [continued]

### **National Suicide Prevention Lifeline**

www.suicidepreventionlifeline.org  
(800) 273-TALK (8255)

### **Missouri Department of Social Services Child Abuse and Neglect Hotline**

(800) 392-3738  
(573) 751-3448  
(if calling outside of Missouri)  
(800) 669-8689  
TDD/TTY: (800) 735-2966

### **“Safe At Home” program in the Missouri Secretary of State’s office**

*The Safe at Home address confidentiality program allows victims to, at no cost, establish a post office box in Jefferson City that is not part of any public record. The Secretary of State will receive all mail sent to you, then forward the mail to your actual address. Those enrolled in the Safe at Home program, which helps survivors of domestic violence, sexual assault, rape, human trafficking or stalking, get a designated address to use for public records like court documents, voting records, etc. This keeps participants’ actual street addresses confidential in public records.*

**(866) 509-1409**  
SafeAtHome@sos.mo.gov

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## LEGAL SERVICE OFFICES IN MISSOURI

### **Legal Aid of Western Missouri**

**Kansas City Central Office**  
4001 Blue Parkway, Suite 300  
Kansas City, MO 64130  
Phone: (816) 474-6750  
*Counties Served: Clay, Jackson, Platte*

**Kansas City Westside Office**  
920 Southwest Blvd.  
Kansas City, MO 64108  
Phone: (816) 474-9868  
*Counties Served: Clay, Jackson, Platte*

**St. Joseph Outreach Office**  
706 Felix Street  
St. Joseph, MO 64501  
Mailing Address: PO Box 1086  
St. Joseph, MO 64502  
Phone: (816) 364-2325  
Toll-Free: (800) 892-2101  
*Counties Served: Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Linn, Livingston, Mercer, Nodaway, Putnam, Sullivan, Worth*

**Joplin Outreach Office**

302 S. Joplin  
Joplin, MO 64801  
Mailing Address: PO Box 1605  
Joplin, MO 64802  
Phone: (417) 782-1650  
Toll-Free: 800-326-2996

**Warrensburg Outreach Office**

305 N. Holden  
Warrensburg, MO 64093  
Phone: (660) 747-7101  
Toll-Free: (800) 892-2943  
Domestic Violence: 877-537-7811  
(toll-free)  
(Phone intakes accepted during all open  
business hours)  
*Counties Served: Benton, Camden, Carroll,  
Cass, Henry, Hickory, Johnson, Lafayette,  
Morgan, Pettis, Ray, Saline, St. Clair*

**Legal Services of Eastern Missouri****St. Louis**

4232 Forest Park Ave.  
St. Louis, MO 63108  
Phone: (314) 534-4200  
Toll-Free: (800) 444-0514  
*Counties Served: Jefferson, St. Charles,  
St. Louis City, St. Louis County*

**Union Outreach Office**

20 South Church Street  
Union, Mo 63084  
Phone: (636) 583-7877  
Toll-Free: (800) 583-7877  
*Counties Served: Franklin, Warren,  
Washington*

**Hannibal Outreach Office**

801 Broadway  
Hannibal, MO 63401  
Phone: (573) 248-1111  
Toll-Free: (800) 767-2018  
*Counties Served: Adair, Clark, Knox,  
Lewis, Lincoln, Macon, Marion, Monroe,  
Montgomery, Pike, Ralls, Schuler,  
Scotland, Shelby*

**St. Louis County Family Court Project**

501 S. Brentwood Blvd.  
St. Louis, MO 63105  
Phone: (314) 615-4502  
*Counties Served: St. Louis County*

## **Mid-Missouri Legal Services Corporation**

### **Columbia**

1201 W. Broadway St.  
Columbia, MO 65203  
Phone: (573) 442-0116  
Toll-Free: (800) 568-4931

*Counties Served: Audrain, Boone,  
Callaway, Chariton, Cole, Cooper,  
Howard, Miller, Moniteau, Osage,  
Randolph*

### **Jefferson City Outreach Office**

428 E. Capitol Ave., Suite 200  
Jefferson City, MO 65101

## **Legal Services of Southern Missouri**

### **Springfield**

809 N. Campbell  
Springfield, MO 65802  
Phone: (417) 881-1397  
Toll-Free: (800) 444-4863

*Counties Served: Barry, Carter, Cedar,  
Christian, Dade, Dallas, Douglas,  
Greene, Howell, Laclede, Lawrence,  
Oregon, Ozark, Polk, Shannon, Stone,  
Taney, Webster, Wright*

### **Rolla Outreach Office**

1000 North Pine, Suite B  
Rolla, MO 65401  
Phone: (573) 341-3655  
Toll-Free: (800) 999-0249

*Counties Served: Crawford, Dent,  
Gasconade, Iron, Madison, Maries,  
Phelps, Pulaski, Reynolds, St. Francois,  
St. Genevieve, Texas*

### **Cape Girardeau Outreach Office**

1225 N. Kingshighway  
P.O. Box 1837  
Cape Girardeau, MO 63702  
Phone: (573) 651-4806  
Toll-Free: (800) 748-7456

### **West Plains Outreach Office**

313 Washington Ave.  
P.O. Box 887  
West Plains, MO 65775  
Phone: (417) 255-0348  
Toll-Free: (800) 444-4863

### **Charleston Outreach Office**

116 N. Main St.  
P.O. Box 349  
Charleston, MO 63834  
Phone: (573) 683-3783  
Toll-Free: (800) 748-7456  
*Counties Served: Bollinger, Butler,  
Cape Girardeau, Dunklin, Mississippi,  
New Madrid, Pemiscot, Perry, Ripley,  
Scott, Stoddard, Wayne*

## HELP AVAILABLE WITH PROTECTION ORDERS

Missouri domestic violence law allows a victim of abuse to ask the court for the following types of help, as well as other terms the court reasonably deems necessary to ensure an adult or child's safety. A Petitioner, through an Order of Protection, may ask the court to order a Respondent to stay out of the Petitioner's dwelling, home or residence, stay away from the Petitioner's place of employment or school, or order that a Respondent stay a certain distance away from the Petitioner or the Petitioner's child/children.

### **ADULT ORDERS OF PROTECTION**

#### ***EX PARTE* ORDER OF PROTECTION [SECTIONS 455.035 & 455.045, RSMo]**

- Temporarily restrains the Respondent from committing or threatening to commit domestic violence, stalking, sexual assault, molesting, or disturbing the peace of the victim.
- Temporarily may restrain the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is: a) jointly owned, leased or rented or jointly occupied by both parties; or b) owned, leased, rented or occupied by the Petitioner individually; or c) jointly owned, leased or rented by the Petitioner and a person other than the Respondent; provided, however, no spouse shall be denied relief under this section by reason of the absence of a property interest in the dwelling unit; or d) jointly occupied by the Petitioner and a person other than the Respondent; provided that the Respondent has no property interest in the dwelling unit.
- Temporarily may restrain the Respondent from communicating with the Petitioner in any manner or through any medium.
- May award temporary custody of minor children where appropriate.

#### **FULL ORDER OF PROTECTION [SECTION 455.050 RSMo]**

- Restrains the Respondent from committing domestic violence or sexual assault, threatening to commit domestic violence or sexual assault, stalking, molesting, or disturbing the peace of the victim.

- May prohibit the Respondent from entering the premises of the dwelling unit of the Petitioner when the dwelling unit is: a) jointly owned, leased or rented or jointly occupied by both parties; or b) owned, leased, rented or occupied by the Petitioner individually; or c) jointly owned, leased, rented or occupied by the Petitioner and a person other than the Respondent; provided, however, no spouse shall be denied relief under this section by reason of the absence of a property interest in the dwelling unit; or d) jointly occupied by the Petitioner and a person other than the Respondent; provided that the Respondent has no property interest in the dwelling unit.
- May prohibit the Respondent from communicating with the Petitioner in any manner or through any medium.
- May award custody of minor children born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interest of the child requires such order be issued. There is a presumption that the best interest of the child is served by placing him or her in the custody of the non-abusive parent.
- May establish a visitation schedule for the non-custodial parent that is in the best interest of the child. The court can deny visitation if it finds that visitation would endanger the child's physical health, impair his or her emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged that would sufficiently protect the custodial parent from future abuse.
- May award child support, when no prior order of support exists, or is pending.
- May award income maintenance, for no more than 180 days, to the Petitioner when the Petitioner and the Respondent are lawfully married.
- May order the Respondent to make or to continue to make rent or mortgage payments on a residence occupied by the Petitioner if the Respondent is found to have a duty to support the Petitioner or other dependent household members.
- May order the Respondent to pay the Petitioner's rent at a residence other than the one previously shared by the parties if the Respondent is found to have a duty to support the Petitioner and the Petitioner requests alternative housing.

- May order the Petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys and other personal effects.
- May prohibit the Respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties.
- May order the Respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program.
- May order the Respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the Petitioner by a domestic violence shelter.
- May order the Respondent to pay court costs.
- May order the Respondent to pay the cost of medical treatment and services that have been provided or that are being provided to the Petitioner as a result of injuries sustained to the Petitioner by an act of domestic violence committed by the Respondent.
- May order one of the parties to pay the other's attorney's fees.
- May order a wireless service provider to transfer the billing responsibility and rights to the wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless service account holder.

## **CHILD ORDERS OF PROTECTION**

### ***EX PARTE* CHILD ORDER OF PROTECTION [SECTION 455.520 RSMo]**

- Temporarily restrains the Respondent from committing or threatening to commit domestic violence, stalking, sexual assault, molesting, or disturbing the peace of the victim.
- Temporarily may restrain the Respondent from entering the family home of the victim except as specifically authorized by the court; from communicating with the victim in any manner or through any medium, except as specifically authorized by the court; Provides a temporary order of custody of minor children.
- No *Ex Parte* Order of Protection excluding the respondent from the family home shall be issued unless the court finds that: the order is

in the best interests of the child or children remaining in the home; the verified allegations of domestic violence present a substantial risk to the child or children unless the Respondent is excluded; and a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party.

## **FULL CHILD ORDER OF PROTECTION [SECTION 455.523 RSMo]**

- Restrains the Respondent from committing domestic violence or sexual assault, threatening to commit domestic violence or sexual assault, stalking, molesting, or disturbing the peace of the victim.
- Awards custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued.
- May award visitation.
- May award child support in accordance with Supreme Court Rule 88.01 and Chapter 452 RSMo.
- May award maintenance to Petitioner when Petitioner and Respondent are lawfully married in accordance with Chapter 452 RSMo.
- May order the Respondent to make or to continue to make rent or mortgage payments on a residence occupied by the victim if the respondent is found to have a duty to support the victim or other dependent household members.
- May order the Respondent to participate in a court-approved counseling program designed to help stop violent behavior or to treat substance abuse.
- May order the Respondent to pay, to the extent that he or she is able, the costs of his or her treatment, together with the treatment costs incurred by the victim.
- May order the Respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the victim by a shelter for victims of domestic violence.
- May order a wireless service provider to transfer the billing responsibility and rights to the wireless telephone number or numbers of any minor children in the Petitioner's care to the Petitioner, if the Petitioner is not the wireless service account holder.

## PERSONALIZED SAFETY PLAN

Safety plans help survivors anticipate the dangers they might face. A safety plan is an adaptable tool to help increase your safety in an ever-changing situation.

### **WHEN TO USE A SAFETY PLAN**

Safety plans can be made for a variety of situations: for dealing with an emergency, such as when you are threatened with a physical assault or an assault has occurred; for continuing to live with or date a partner who has been abusive; or for protecting yourself after you have ended a relationship with an abusive partner.

### **USE WHAT YOU ALREADY KNOW**

If you have been abused, you probably know more about safety planning and risk assessment than you might realize. Being in a relationship with an abusive partner—and surviving—requires considerable skill and resourcefulness. Any time you do or say something as a way to protect yourself or your children, you are assessing risk and enacting a safety plan. You do it all the time; it's just not always a conscious process.

### **THINK IT THROUGH**

It can be a helpful strategy to evaluate risks and make safety plans in a more intentional way. Whether you are currently with your partner or have ended the relationship, and whether you choose to use available services or to involve the police, there are certain things that are helpful to consider in planning for your future safety.

### **BE AWARE OF DANGERS**

If you are planning to leave your partner or already have left, be aware that abusers often escalate their violence during times of separation. Making a separation safety plan can help reduce the risks to you and your children.

### **EVALUATE YOUR OPTIONS**

Only you can judge who it's safe to tell about your situation and who to ask for help. Sometimes, people who don't have good information about domestic violence respond in ways that aren't helpful, even when they mean well. On the other hand, you might feel comfortable

asking for help from someone you know. It's your decision. The important thing is for you to identify all the people who might be willing and able to help you. Make a list of their phone numbers and attach it to your safety plan for easy reference.

## **PLAN AHEAD**

You don't have to wait for an emergency to ask for help. In fact, it's a good idea to talk to people who can help before there's a crisis. Find out what they are willing and able to do for you. That way, you'll know in advance if you have a place to stay, a source of financial assistance or a person to help you in other ways.

## **REDUCE YOUR RISK**

No one has control over a partner's violence, but people can and do find ways to reduce their risk of harm. The following safety plan is a tool to help you identify and evaluate your options and assist you in creating a personalized plan to reduce your risk when confronted with the threat of harm or with actual harm. Use what applies or change it to reflect your particular situation. Your safety plan does not need to be written down (especially if you fear your abuser will find it), though you may choose to. There's no right or wrong way to develop a safety plan. Make it your own, and review it regularly to make changes as needed.

## **SAFETY DURING A VIOLENT INCIDENT**

- I will use my judgment and intuition. If I think my partner is going to hurt me, I will try to move to a space that has lower risk, such as \_\_\_\_\_. [Often bathrooms, garages, kitchens, areas near weapons or rooms without an outside exit are most dangerous.]
- If the situation is serious, I can try to calm down my partner by giving in to demands. I have the right to protect myself until I/my children are out of danger.

## **SAFETY IF STAYING**

- I can tell \_\_\_\_\_ about the violence and request they call 911 if they hear noises coming from my home.
- I can teach my children how to use the phone or dial 911 to contact the police or fire department and/or how to contact a safe neighbor for help. I will make sure my children know our address.

- I can put emergency numbers in my phone.
- I will use \_\_\_\_\_ as the code word with my children or my friends so they will call for help if needed.
- If I have to leave my home, I will go to \_\_\_\_\_.  
If I cannot go there, I can go to \_\_\_\_\_.
- The local domestic violence program hotline number is \_\_\_\_\_.  
I can call it or the national hotline at [800] 799-SAFE [7233] for help.

## **SAFETY IF LEAVING**

### *Preparing to leave*

- I will call a domestic violence program to get help making my plans. The hotline number for the nearest program is \_\_\_\_\_.
- I will leave money and an extra set of keys with \_\_\_\_\_ so I can leave quickly.
- I will leave extra clothes with \_\_\_\_\_.
- I can open a post office box and have personal mail and bills (credit cards, cell phone, etc.) sent there.
- I will ask \_\_\_\_\_ and \_\_\_\_\_ to see who would be able to let me stay with them or lend me some money.
- I can increase my independence by opening a bank account and getting credit cards in my own name; by taking classes or getting job skills; and/or by getting copies of all the important papers and documents I might need and keeping them with \_\_\_\_\_.
- I can rehearse my escape plan and, if appropriate, practice it with my children.
- If it's not safe to talk openly, I will use \_\_\_\_\_ as the code word or signal to my children that we are leaving, or to my family or friends that we are coming.
- I can keep my purse or a wallet and car keys ready and put them \_\_\_\_\_ so I can leave quickly.
- I can take my pet to \_\_\_\_\_ if I need to leave.

## **ITEMS TO CONSIDER TAKING IF LEAVING**

*The following items may be helpful to have if you decide to leave, but remember that almost all of these items are replaceable.*

- Identification for myself
- My and my children's birth certificates and Social Security cards
- Credit, debit and ATM cards
- School and vaccination records
- Money, checkbook, and bankbooks
- Cell phone chargers and phone plan records
- Medication and medical supplies
- Medical records for all family members
- Keys—house, car, work
- Driver's license, car registration
- Insurance papers
- Public assistance ID/EBT and Medicaid cards
- Passports, Alien Registration Receipt Cards, work permits, green cards for myself and my children
- Divorce or separation papers
- Lease, rental agreement or house deed
- Car/mortgage payment book
- Children's toys, security blankets, stuffed animals
- Sentimental items, photos, jewelry
- Small objects to sell
- My personalized safety plan (if written down)

## **SAFETY AT HOME**

*If my partner and I are no longer living together*

- I can, or ask my landlord to, change the locks on my doors and windows.
- I can, or ask my landlord to, replace wooden doors with metal ones.
- I can, or ask my landlord to, install security systems, including additional locks, window bars, poles to wedge against doors, etc.
- I can buy rope ladders to be used for escape from second-floor windows.

- I can install smoke detectors and put fire extinguishers on each floor in my home.
- I can provide my onsite property manager and/or trusted neighbors with a picture of my partner and ask them to notify the police if they see him near my home.

### **SAFETY AT WORK**

- I can inform my boss, the security supervisor and the employee assistance program [EAP], if available, about my situation. The number of the EAP office is \_\_\_\_\_.
- I can ask \_\_\_\_\_ to screen my calls and visitors at work.
- When leaving work, I can \_\_\_\_\_.
- If there's trouble when traveling to and from work, I can call 911 or \_\_\_\_\_.

### **SAFETY IN PUBLIC OR IF BEING STALKED**

- If I suspect I am in imminent danger, I will locate a safe place for myself (police stations, residences of family or friends, domestic violence shelters, local churches, public areas, etc.).
- I can document my partner's actions and keep it in a safe place. This may include taking photos of destroyed property/vandalism, saving voicemails, keeping texts/email/letters/notes, etc.
- I can change my patterns—avoid stores, restaurants, banks, doctor's appointments, self-service laundries and other places where my partner might find me based on my regular schedule.
- I can tell \_\_\_\_\_ and \_\_\_\_\_ about the situation and provide them with a photo or description of my partner and any possible vehicles. I can ask them to call the police if they believe I or my children are in danger.
- When I am out of the house, I will try not to travel alone and will try to stay in public areas.

### **WITH AN ORDER OF PROTECTION**

- I will keep my protection order \_\_\_\_\_. [Always keep it on or near you.]
- I will give copies of my protection order to the local police or sheriff and to departments in towns where I visit friends and family.

- I will give copies to my employer, my religious advisor, my closest friend, my children's school and child-care center and \_\_\_\_\_.
- If my partner destroys my Order or if I lose it, I can get another copy from the court that issued it.
- If my partner violates the Order, I can call the police and report a violation, contact my attorney, call my domestic violence program advocate, and/or advise the court of the violation.
- I can call a domestic violence program if I have questions about how to enforce an Order or if I have problems getting it enforced.

## **PROTECTING MY CHILDREN**

- I can teach developmentally appropriate safety strategies to my children.
- I can teach my children how to make a phone call to me if they are concerned about their safety.
- I can teach my children how to use the phone or dial 911 to contact the police and fire departments and how to contact a safe neighbor for help. I will make sure they know our address.
- I can tell my children's caretakers who has permission to pick them up and make sure they know how to recognize those people.
- I will give the people who take care of my children copies of custody and protection orders, as well as emergency numbers.
- I can arrange care for my pets ahead of time, and keep them supervised when outside.

## **SAFETY AND TECHNOLOGY**

- Each day there are advances in technology. I can ask someone familiar with technology or domestic violence about the ways that my partner may monitor me.
- I will use a computer that my partner doesn't have access to when I look for help, a new place to live, etc. It may be safest to use a computer at a public library, community center or \_\_\_\_\_.
- I can ask my friends and family to be careful about who they give my email address to, and to use the Bcc: option when copying me on an email.

- When making or receiving private calls, I will not use a cell phone that I share with my partner because my partner may have access to cell phone billing records, or may have put settings on my phone to track my whereabouts. My local domestic violence shelter may have a donated cell phone I can use.
- I will ask the court systems, post office and other government agencies how they protect or publish my records and request that they seal or restrict access to my files to help protect my safety.
- I will ask a domestic violence advocate about the address confidentiality program, Safe at Home.

## **MY EMOTIONAL HEALTH**

- If I am feeling down, lonely or confused, I can call \_\_\_\_\_ or the domestic violence hotline \_\_\_\_\_.
- If I have left my partner and am considering returning, I will call \_\_\_\_\_ or spend time with \_\_\_\_\_ before I make a decision.
- I can attend support groups, workshops or classes at the local domestic violence program or \_\_\_\_\_ so I can build a support system, learn skills or get information.
- I will look at how and when I drink alcohol or use other drugs. If I am going to drink or use other drugs, I will do it in a place where people are committed to my safety.

## **MY SAFETY PLANNING AS AN IMMIGRANT OR REFUGEE**

### *Additional items to consider collecting*

- Copies of important papers, including those I might need for my immigration case, such as my I-94, copies of visa applications, work permits, etc.
- Photos of my spouse and I when we were dating
- Wedding invitation
- Marriage certificate
- Photographs of my wedding
- Love letters, emails or cards from my spouse when we were dating and after our marriage
- Copies of police reports and medical records

- Photos of my injuries
- Copies of my spouse's birth certificate/Social Security card/green card/or certificate of naturalization
- Divorce papers from my previous marriage or from my spouse's previous marriage, papers that show I have lived with my spouse in the United States [e.g., copies of my lease/rental agreement, utility bills, or any envelopes or documents with my name and my spouse's name listed at the same address]

***If law enforcement becomes involved***

- I will consider contacting an attorney or organization that provides immigration legal services to learn more about what forms of help and immigration relief might be available to me or in the event that I am detained and need their assistance.
- I can consider appointing a power of attorney over my minor children in case I am detained and separated from my children [a possible power of attorney may be a friend or trusted family member].
- I will educate myself about my rights as an immigrant or refugee.
- I can become familiar with my consulate and the assistance they provide.

**KEEP YOUR PLAN IN A SAFE PLACE**

Only you can decide if it is safe to have a written safety plan. If you decide to keep a written plan, find a place to keep it where your partner won't find it. Ask a friend to keep a copy for you. Whether it's safe to write down your plan or not, it's still important to make one.

**HOW CAN A DOMESTIC VIOLENCE PROGRAM HELP ME?**

Local domestic violence and sexual violence programs are a vital resource, providing free and confidential assistance to adults and their children victimized by domestic violence, rape, sexual assault and stalking. They provide emergency safety services, such as shelter and 24-hour crisis hotlines. **You don't have to stay in a shelter to get help from a program.** Most also provide a full range of non-residential services to those who have been abused. Domestic violence program advocates are experienced in providing assistance to survivors and their

children. They understand the criminal, legal, family court, immigration and social service systems. They are familiar with other community resources that might be useful to you.

In addition to giving you helpful information, advocates often can accompany you to court, to the police station, to the hospital or to social services' offices. They can provide you with practical and emotional support. Getting help from someone who has experience working with survivors of domestic or sexual violence and who knows how to work with the different systems can make things easier for you.

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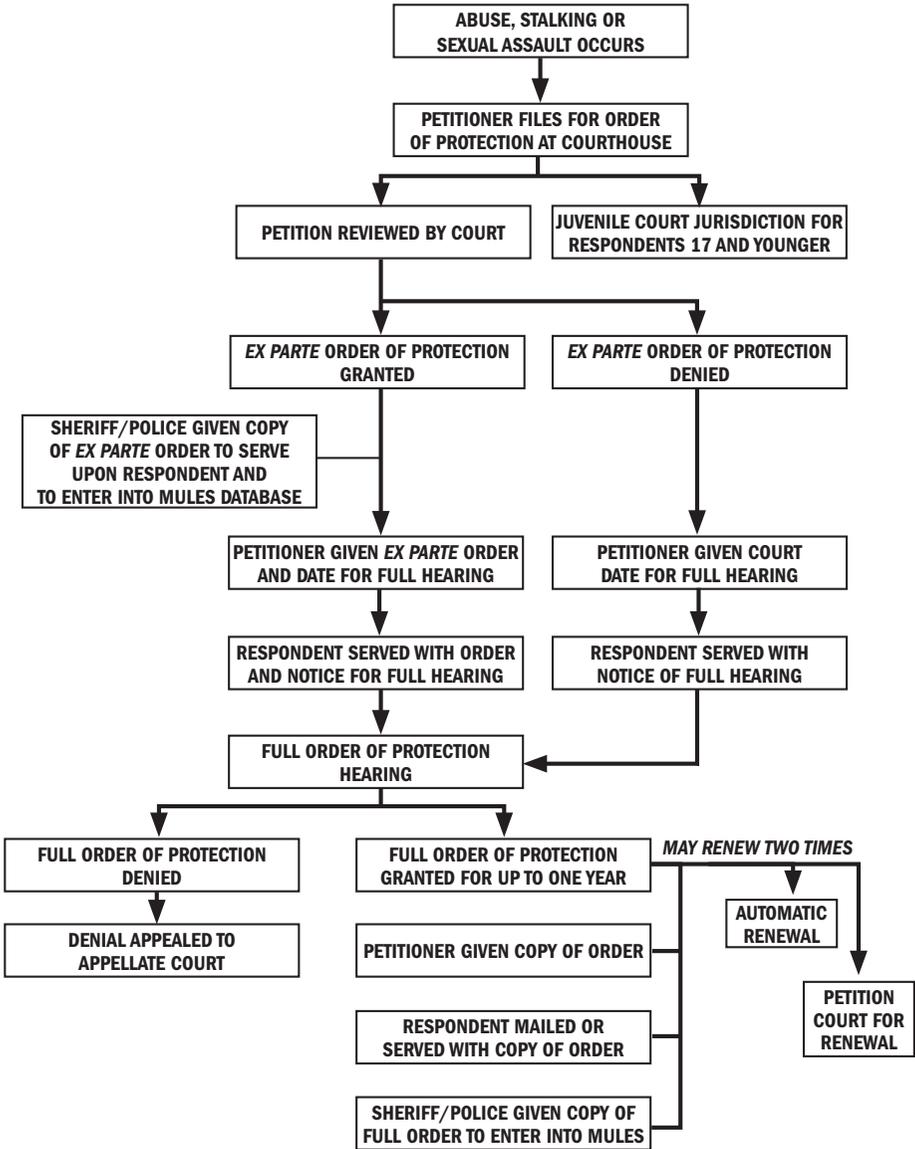
**NATIONAL DOMESTIC VIOLENCE  
HOTLINE  
800-799-SAFE (7233)**

**Toll-free, 24-hour crisis intervention and referrals  
to domestic violence programs in your area.**

**24-hour chatline:  
[www.thehotline.org](http://www.thehotline.org)**

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# PROCEDURE FOR OBTAINING AN ORDER OF PROTECTION



## MISSOURI PROTECTION ORDERS AT A GLANCE

### WHO CAN GET AN ORDER OF PROTECTION?

**Adult Order of Protection:** [Section 455.010(11) RSMo] The person who files for the Order of Protection is called the Petitioner. The Petitioner is any adult, defined as a person 17 years of age or older, or otherwise emancipated [Section 455.010(2) RSMo].

**Child Order of Protection:** [Section 455.010(11) & 455.503(2) RSMo]. The Petitioner is any parent, guardian, guardian *ad litem*, court-appointed special advocate, or juvenile officer on behalf of a child (any person younger than 17 years of age).

### WHO CAN THE ORDER BE ISSUED AGAINST?

**Adult and Child Orders of Protection:** [Section 455.010(12) RSMo] The person the Order of Protection is filed against is called the Respondent. The Respondent can be any family or household member (a spouse, a former spouse, any person related by blood or marriage, any person residing together or who resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or anyone who has a child in common, regardless of whether they have been married or have resided together [Section 455.010(7) RSMo]) and a person alleged to have committed an act of stalking or sexual assault. Petitioners can file protection orders for sexual assault and stalking against people who are not their family or household members with the petitioner. In addition, an Order of Protection can be filed against a child, a person under 17.

### WHAT ACTS BY THE ABUSER FORM THE BASIS FOR RELIEF?

**Adult and Child Orders of Protection:** [Section 455.010(1) RSMo] Abuse, which includes, but is not limited to, the occurrence of any of the following acts, attempts, or threats against a person who may be protected under Missouri law: assault, battery, coercion, harassment, sexual assault or unlawful imprisonment, except abuse shall not include abuse inflicted on a child by accidental means by an adult or household member or discipline of a child, including spanking, in a reasonable manner. Stalking and sexual assault also is covered by this section of law.

## WHAT ARE THE LAWS THAT ESTABLISH ORDERS OF PROTECTION?

### **Adult Order of Protection:**

[Section 455.045 RSMo] *Ex Parte* Order of Protection.

[Section 455.050 RSMo] Full Order of Protection.

### **Child Order of Protection:**

[Section 455.520 RSMo] *Ex Parte* Child Order of Protection.

[Section 455.523 RSMo] Full Child Order of Protection.

## HOW DO YOU APPLY FOR AN ORDER OF PROTECTION?

**Adult Order of Protection:** [Sections 455.015–455.038 RSMo] The Petitioner must go to a court to get an Order of Protection. The Petitioner files a petition with the court asking for an *Ex Parte* Order of Protection [a temporary Order of Protection] if there is an immediate and present danger to the Petitioner. An *Ex Parte* Order of Protection is not always granted, but the court always should set a hearing date. A hearing on a full Order of Protection should be held within 15 days after petition is filed, unless there is good cause for a continuance. [Section 455.040 RSMo]

**Child Order of Protection:** [Sections 455.503–455.510 RSMo] The Petitioner must go to a court to get an Order of Protection. [Section 455.035 RSMo] First, the Petitioner files a petition with the court asking for an *Ex Parte* Order of Protection [a temporary Order of Protection] if there is an immediate and present danger to the child. An *Ex Parte* Order of Protection is not always granted, but the court always should set a hearing date. A hearing on a full Child Order of Protection should be held within 15 days after petition is filed, unless there is good cause for a continuance. [Section 455.516 RSMo]

## HOW LONG CAN AN ORDER LAST, AND IS IT RENEWABLE?

**Adult Order of Protection:** [Section 455.040(1) RSMo] An Order of Protection lasts for a minimum of 180 days and a maximum of one year. It can be renewed twice; each renewal can last up to one year. No new incident of abuse, sexual assault or stalking is required if the order is renewed before the old one expires.

**Child Order of Protection:** [Section 455.516(1) RSMo] A Child Order of Protection can last for a minimum of 180 days and a maximum of one year. The order can be renewed twice; each renewal can last up to

one year. No new incident of abuse is required if the order is renewed before the old one expires.

**Automatic One-Year Renewal** [Sections 455.040(1) & 455.516(1) RSMo]: The court may, upon a finding that it is in the best interest of the parties, include a provision that any Full Order of Protection for one year shall automatically renew unless the Respondent requests a hearing by 30 days prior to its expiration. You may check the box on your petition requesting an automatic one-year renewal.

### **WHAT HAPPENS IF A CUSTODY ORDER IS ALREADY IN PLACE OR PENDING BEFORE AN ORDER OF PROTECTION IS GRANTED?**

**Adult and Child Orders of Protection:** [Sections 455.050(3)(1) & 455.523(2)(1) RSMo] A court may not change custody in an Order of Protection if a child custody order is in place or is pending. A custody order is pending if there is a date set for a custody hearing. Local practice may require modification of the protective order to remove the custody terms.

### **WHAT HAPPENS IF ANOTHER COURT MAKES A CUSTODY ORDER AFTER AN ORDER OF PROTECTION IS GRANTED?**

**Adult Order of Protection:** [Section 455.060(4) RSMo] The portion of the Order of Protection relating to custody, visitation, support and maintenance is no longer valid, but the prohibitions regarding abuse remain in effect. Local practice may require modification of the Order to remove custody terms.

**Child Order of Protection:** [Section 455.528(2) RSMo] The portion of the Order of Protection relating to custody, visitation, support and maintenance is no longer valid, but the prohibitions regarding abuse, sexual assault or stalking remain in effect. Local practice may require modification of the Order to remove custody terms.

### **CAN AN ORDER BE MODIFIED?**

**Adult Order of Protection:** [Sections 455.060 & 455.065 RSMo] Yes. Upon the filing of a motion and a showing of changed circumstances.

**Child Order of Protection:** [Sections 455.528 & 455.530 RSMo] Yes. Upon the filing of a motion and a showing of changed circumstances.

## **ARE PROTECTION ORDERS FROM OTHER STATES ENFORCEABLE IN MISSOURI?**

**Adult Order of Protection:** [Section 455.067 RSMo] Yes. Missouri law provides that orders from other states must be given “full faith and credit” in Missouri. A procedure for registering these “foreign orders” is contained in the statute. However, registration does not have to occur for such orders to be enforced.

**Child Order of Protection:** Uncertain. No statutory or legal precedent at this time. Child orders might be covered by the federal Violence Against Women Act. Consult an attorney.

## **WHAT HAPPENS IF AN ORDER IS VIOLATED?**

**Adult and Child Orders of Protection:** [Sections 455.085, 455.090, 455.538 & 455.524 RSMo] The Respondent can be arrested and prosecuted for a crime. Arrestable violations of the terms and conditions of a protection order include abuse, sexual assault, stalking, disregard of child custody provisions, communication initiated by the Respondent, or entrance upon the premises of the Petitioner’s dwelling unit, place of employment or school, or being within a certain distance of the Petitioner or child of the Petitioner. If the violation involves the failure to surrender custody of a minor child to the person to whom custody is awarded, the Respondent must be arrested and the child turned over to the custodial parent. A contempt of court action can be brought in the issuing court and the violator can be held in contempt of court. [This sometimes results in a fine and can include jail time.] The Court may schedule compliance review hearings to monitor the Respondent’s compliance with the order, whether or not there has been a violation.

## CRIMINAL PENALTIES

### **PENALTIES FOR FELONIES** **[SECTIONS 558.011 & 558.002 RSMO]**

- Class A felony is punishable by a prison term of 10 to 30 years, or life.
- Class B felony is punishable by a prison term of 5 to 15 years.
- Class C felony is punishable by a prison term of 3 to 10 years. The court also can impose a fine up to \$10,000.
- Class D felony is punishable by a prison term of up to 7 years, or not to exceed one year in jail. The court also can impose a fine up to \$10,000.
- Class E felony is punishable by a prison term of up to 4 years, or not to exceed one year in jail. The court also can impose a fine up to \$10,000.
- Corporations may be fined up to \$20,000 for any felony.

### **PENALTIES FOR MISDEMEANORS**

- Class A misdemeanor is punishable by up to 1 year imprisonment. The court also can impose a fine up to \$2,000.
- Class B misdemeanor is punishable by up to 6 months imprisonment. The court also can impose a fine up to \$1,000.
- Class C misdemeanor is punishable by up to 15 days imprisonment. The court also can impose a fine up to \$750.
- Class D misdemeanor is punishable by fines up to \$500.
- Corporations may be fined up to \$10,000 for any misdemeanor.

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## DOMESTIC ASSAULT OFFENSES

*A “domestic victim” is a family or household member: spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time. [Section 565.002(6) RSMo]*

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### **Domestic assault, 1st degree**

Section 565.072 RSMo

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#### **CRIMINAL ACT**

Attempts to kill, or knowingly cause or attempt to cause serious physical injury to a domestic victim.

#### **CLASS OF CRIME**

**Class B felony:** 5 to 15 years

**Class A felony** [if a person inflicts serious physical injury [on the victim]: 10 to 30 years, or life

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### **Domestic assault, 2nd degree**

Section 565.073 RSMo

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#### **CRIMINAL ACT**

1. Knowingly causes physical injury to a domestic victim by any means, including but not limited to, use of a deadly weapon or dangerous instrument, or by choking or strangulation.
2. Recklessly causes serious physical injury to such domestic victim;  
or
3. Recklessly causes physical injury to such domestic victim by means of a deadly weapon.

#### **CLASS OF CRIME**

**Class D felony:** Up to 7 years

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## DOMESTIC ASSAULT OFFENSES, CONTINUED

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### ***Domestic assault, 3rd degree***

Section 565.074 RSMo

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#### **CRIMINAL ACT**

Attempts to cause physical injury or knowingly causes physical pain or illness to a domestic victim.

#### **CLASS OF CRIME**

**Class E felony:** Up to 4 years

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### ***Domestic assault, 4th degree***

Section 565.076 RSMo

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#### **CRIMINAL ACT**

1. Attempts to cause or recklessly causes physical injury, physical pain, or illness to a domestic victim;
2. With criminal negligence, causes physical injury to a domestic victim by means of a deadly weapon or dangerous instrument;
3. Purposely places a domestic victim in apprehension of immediate physical injury by any means;
4. Recklessly engages in conduct which creates a substantial risk of death or serious physical injury to a domestic victim;
5. Knowingly causes physical contact with a domestic victim knowing he or she will regard the contact as offensive; or
6. Knowingly attempts to cause or causes the isolation of a domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

#### **CLASS OF CRIME**

**Class A misdemeanor:** Up to 1 year

**Class E felony** [if the person has previously been found guilty of the offense of domestic assault, of any assault offense under this chapter, or of any offense against a domestic victim]: Up to 4 years

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## ADULT SEXUAL OFFENSES

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### **Rape, 1st degree**

Section 566.030 RSMo

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#### **CRIMINAL ACT**

Sexual intercourse with a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

#### **CLASS OF CRIME**

**Unclassified felony:** 5 years to life\*

*\*Penalties range because of the age of the victim and other circumstances. See statute for the detailed list of criminal offenses and punishments at [revisor.mo.gov](http://revisor.mo.gov).*

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### **Attempted rape, 1st degree**

Section 566.030 RSMo

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#### **CRIMINAL ACT**

Attempted sexual intercourse against a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

#### **CLASS OF CRIME**

**Unclassified felony:** 5 years to life\*

*\*Penalties range because of the age of the victim and other circumstances. See statute for the detailed list of criminal offenses and punishments at [revisor.mo.gov](http://revisor.mo.gov).*

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## ADULT SEXUAL OFFENSES, CONTINUED

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### ***Rape, 2nd degree***

Section 566.031 RSMo

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#### **CRIMINAL ACT**

Sexual intercourse with another person knowing the act is without victim's consent.

#### **CLASS OF CRIME**

**Class D felony:** Up to 7 years

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### ***Sodomy, 1st degree***

Section 566.060 RSMo

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#### **CRIMINAL ACT**

Deviate sexual intercourse with a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

[Deviate sexual intercourse is any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim. [Section 566.010(3)]

#### **CLASS OF CRIME**

**Unclassified felony:** 5 years to life

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## ADULT SEXUAL OFFENSES, CONTINUED

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### ***Attempted sodomy, 1st degree***

Section 566.060 RSMo

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#### **CRIMINAL ACT**

Attempted deviate sexual intercourse with a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

[Deviate sexual intercourse is any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim. [Section 566.010(3)]

#### **CLASS OF CRIME**

**Unclassified felony:** 5 years to life

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### ***Sodomy, 2nd degree***

Section 566.061 RSMo

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#### **CRIMINAL ACT**

Deviate sexual intercourse knowing the act is without victim's consent.

[Deviate sexual intercourse is any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim. [Section 566.010(3)]

#### **CLASS OF CRIME**

**Class D felony:** Up to 7 years

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## ADULT SEXUAL OFFENSES, CONTINUED

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### **Sexual abuse, 1st degree**

Section 566.100 RSMo

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#### **CRIMINAL ACT**

Sexual contact with a person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion.

#### **CLASS OF CRIME**

**Class C felony:** 3 to 10 years

**Class B felony** [if it is aggravated sexual offense or if victim is less than 14 years of age]: 5 to 15 years

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### **Sexual abuse, 2nd degree**

Section 566.101 RSMo

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#### **CRIMINAL ACT**

Purposely subjects another person to sexual contact without the person's consent.

#### **CLASS OF CRIME**

**Class A misdemeanor:** Up to 1 year

**Class E Felony** [if it is an aggravated sexual offense\*]: Up to 4 years

*\*A detailed definition of "aggravated sexual offense" is defined in [Section 566.010(1) RSMo] and can be found at [revisor.mo.gov](http://revisor.mo.gov).*

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## ADULT SEXUAL OFFENSES, CONTINUED

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### ***Sexual misconduct, 1st degree***

Section 566.093 RSMo

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#### **CRIMINAL ACT**

1. Exposes his or her genitals under circumstances a person knows that this conduct is likely to cause affront or alarm;
2. Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or
3. Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

[Deviate sexual intercourse is any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim. [Section 566.010(3)]

#### **CLASS OF CRIME**

**Class B misdemeanor:** Up to 6 months

**Class A misdemeanor** [if previously found guilty of an offense under this chapter, or previously found guilty of an offense in another jurisdiction]: Up to 1 year

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### ***Sexual Misconduct, 2nd degree***

Section 566.095 RSMo

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#### **CRIMINAL ACT**

Solicits or requests another person to engage in sexual conduct under circumstance that is likely to cause affront or alarm.

#### **CLASS OF CRIME**

**Class C misdemeanor:** Up to 15 days

## STALKING

### ***Stalking, 1st degree***

Section 565.225 RSMo

#### **CRIMINAL ACT**

Purposely, through a course of conduct that serves no legitimate purpose, disturbs [frightens, intimidates, or emotionally distresses] or follows with the intent of disturbing another person and:

1. Makes a threat communicated with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, the safety of his or her family or household member, or the safety of domestic animals or livestock kept at such person's residence or on such person's property. The threat shall be against the life of, or a threat to cause physical injury to, or the kidnapping of the person, the person's family or household members, or the person's domestic animals or livestock as kept at such person's residence or on such person's property; or
2. At least one of the acts constituting the course of conduct is in violation of an order of protection and the person has received actual notice of such order; or
3. At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or
4. At any time during the course of conduct, the other person is 17 years of age or younger and the person disturbing the other person is 21 years of age or older;
5. He or she has previously been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim; or
6. At any time during the course of conduct the other person is a participant in the Address Confidentiality Program, and the person knowingly accesses or attempts to access the address of the other person.

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## STALKING, CONTINUED

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### ***Stalking, 1st degree (continued)***

#### **CLASS OF CRIME**

**Class E felony:** Up to 4 years

**Class D felony** [if the person has previously been found guilty of stalking, first degree or second degree, or any offense committed in another jurisdiction which, if committed in this state, would be chargeable or indictable as stalking, first or second degree]:

Up to 7 years

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### ***Stalking, 2nd degree***

Section 565.227 RSMo

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#### **CRIMINAL ACT**

Purposely, through a course of conduct, disturbs, or follows with the intent to disturb another person.

#### **CLASS OF CRIME**

**Class A misdemeanor:** Up to 1 year

**Class E felony** [if the person has previously been found guilty of a violation of stalking, second or first degree, or of any offense committed in another jurisdiction which, if committed in this state, would be chargeable or indictable as stalking, first or second degree]:

Up to 4 years

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## HARRASSMENT

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### ***Harassment, first degree***

Section 565.090 RSMo

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#### **CRIMINAL ACT**

A person, without good cause, engages in any act with the purpose to cause emotional distress to another person, and such act does cause the person to suffer emotional distress.

#### **CLASS OF CRIME**

**Class E felony:** Up to 4 years

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### ***Harassment, second degree***

Section 565.091 RSMo

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#### **CRIMINAL ACT**

Engages, without good cause, in any act with the purpose to cause emotional distress to another person.

#### **CLASS OF CRIME**

**Class A misdemeanor:** Up to 1 year

**Class E felony** [if the person has previously been found guilty of a violation of harassment, second degree, or of any offense committed in another jurisdiction which, if committed in this state, would be chargeable as harassment, second degree]: Up to 4 years









