Significant changes in Missouri laws took effect on August 28, and more will become effective in January 2017. Learn the ways in which these new laws affect the lives of survivors and the daily work of advocates and programs. These new laws include changes to statutes on guns, protection orders, victim notification rights, human trafficking, and collaborations with universities and colleges.
Missouri Coalition Against Domestic and Sexual Violence  
White Paper on Senate Bill 656  
October 2016

Significant changes to Missouri gun laws will become law effective January 1, 2017.

Summary
The Missouri General Assembly in September 2016 voted to override Gov. Jay Nixon’s veto and pass Senate Bill 656, which will allow Missourians to carry concealed weapons without permits, background checks or training. This action effectively nullified the only Missouri law that placed restrictions on gun ownership by convicted domestic violence misdemeanor offenders and respondents to Orders of Protection. SB 656 also expanded the ability of individuals to use deadly force through a “stand your ground” law and expanded the “Castle Doctrine” law to allow those with permission to be on another’s property to use deadly force if the guests believe they are threatened by another individual.

As a result of SB 656 no permits are required in Missouri to carry a concealed weapon, but Missouri law still allows for such permits to be granted. SB 656 allows sheriffs to issue permits to qualified Missourians and extends the time for those permits to be in effect from five years to 10 years, 25 years or for the permit-holder’s lifetime. Those convicted of domestic violence misdemeanors or who are respondents to a Full Order of Protection are disallowed from being granted these extended or lifetime permits for concealed weapons.

Provisions of Senate Bill 656

OFFENSE OF UNLAWFUL POSSESSION OF A WEAPON CHANGED TO ALLOW “CONSTITUTIONAL CARRY” (Section 571.030 RSMo)
The criminal offense of unlawful possession of a weapon was changed to omit the element of the crime that a person was found to be in possession of a concealed weapon without a permit. This is the basis in law that makes it legal in Missouri to carry a concealed weapon without a permit effective January 1, 2017 (Section 571.030.1(1) RSMo). Supporters of this provision allowing the lawful possession of concealed weapons without a permit in Missouri call it a “constitutional carry” firearm law.

In this section of law, the offense of unlawful use of a weapon is committed if a person carries a concealed weapon in an area where such weapons are restricted and prohibited. These weapons include a firearm, knife, blackjack or another weapon readily capable of lethal use. With the passage of SB 656 in September 2016, the penalty for conviction of the offense of unlawful possession of a weapon for carrying a concealed weapon onto private property where it is posted as off-limits for such weapons is a class B misdemeanor effective January 1, 2017.

The elements of the offense of unlawful possession of a weapon still include actions such as shooting a firearm into a house or motor vehicle, displaying a lethal weapon in an angry or threatening manner, possessing a firearm while intoxicated, and possessing a firearm while also in possession of a felony-level amount of a controlled substance.
EXTENDED AND LIFETIME CONCEALED CARRY PERMITS ESTABLISHED: DV OFFENDERS INELIGIBLE
(Sections 571.126 to 571.230 RSMo)
Missouri law, as changed by Senate Bill 656, does not require a concealed weapons permit for a person to legally carry a concealed weapon. However, provisions in SB 656 maintain the statutory process that allows sheriffs to issue concealed weapons permits to Missourians who are 19 or older and who meet the statutory requirements to obtain those permits. Some gun owners might seek a permit if an employer requires one or to allow the permit-holder to carry a firearm across state lines.

The period of time for these permits was extended from the previous and ongoing five-year permits (Section 571.101 RSMo) to ones that can be granted for 10 years, 25 years or for the lifetime of the permit applicant (Section 571.205.1 RSMo). Despite the extended timelines, these permits must be renewed every five years.

Applicants for these extended or lifetime concealed weapons permits must go through background checks. Those with domestic violence misdemeanor convictions and those who are respondents to Full Orders of Protection cannot be granted extended or lifetime concealed weapons permits by sheriffs (Section 571.205.3(10)-(11) RSMo).

The lifetime and extended concealed weapons permits can be suspended or revoked if the permit holder, after getting the permit, is subject to a Full Order of Protection, an arrest warrant, or is convicted of a crime, including domestic violence misdemeanors (Section 571.210.1 RSMo).

The sheriff must conduct a name-based criminal background check on extended and lifetime permit holders once every five years (Section 571.210.8 RSMo). The lifetime and extended concealed carry permits are valid only in Missouri (Section 571.205 RSMo).

CARRYING CONCEALED WEAPONS ONTO PROPERTY POSTED WITH ‘NO CONCEALED FIREARMS’ SIGNS
(Section 571.030.8(2) and Section 571.215.2 RSMo)
Two sections of law decriminalize the act of carrying a concealed weapon onto private property whose owner has posted the premises as being off-limits to concealed firearms. The person who does carry a concealed weapon onto posted property may be removed from the premises by law enforcement officers and fined, as provided in Section 571.107 RSMo, but not charged with a crime unless an additional illegal act is committed on the private property.

This provision also is in Section 571.215.2 RSMo for those with extended or lifetime concealed weapons permits who carry their concealed weapons onto property posted as being off-limits to those firearms. The penalty in that section is a citation for a fine of $100 for a first offense, $200 for a second offense within six months and $500 for a third offense. Second- and third-time offenders can have their concealed weapons permits revoked or permanently denied.
DIMENSIONS OF SIGNS REQUIRED FOR POSTING PREMISES AS OFF-LIMITS TO CONCEALED WEAPONS
(Section 571.030.8(2) RSMo)
This section of Missouri law restates previous law that established the required dimensions of signs posted by an owner of private property that the premises are “off-limits to concealed firearms.” The law requires the sign(s) to be “displayed in a conspicuous place of a minimum size of 11 inches by 14 inches with the writing thereon in letters of not less than one inch.”

SELF-DEFENSE LAWS BROADENED TO INCLUDE ‘STAND YOUR GROUND’ WITHOUT DUTY TO RETREAT
(Section 563.031.1-3 RSMo)
Missouri law as of January 1, 2017 provides that a person does not have a duty to retreat prior to using deadly force against another person if he or she reasonably believes an imminent threat of “death, serious physical injury, or any forcible felony” is present (Section 563.031.1-2 RSMo). This is known as a “stand your ground” law. It applies to any person who is not engaged in an unlawful activity, in any place that person has a legal right to be, and allows for the use of deadly force without a duty to retreat by individuals who reasonably believe deadly force is necessary to protect themselves or a third party, including an unborn child (Section 563.031.2(1) RSMo).

Previously, Missouri law provided that individuals, to the extent possible, were required to retreat (“withdraw from the encounter”) prior to the use of deadly force against another person who threatens them with unlawful use of force (Section 563.031.1(1)(a) RSMo).

Missouri law does not list all of the locations where a “person has the legal right to be,” but does specify that there is no duty to retreat prior to the use of deadly force if a person is in a “dwelling, residence, or vehicle where the person is not unlawfully entering or unlawfully remaining;” or “from private property that is owned or leased by such individual;” or “if the person is in any other location such person has the right to be” (Section 573.031.3(1)-(3)).

“CASTLE DOCTRINE” EXPANDED TO INCLUDE LAWFUL USE OF FORCE ON ANOTHER’S PROPERTY
(Section 563.031.3(3) RSMo)
A provision in Missouri law known as “the Castle Doctrine” allows a person who owns or leases private property to use deadly force in self-defense or defense of others against a person who unlawfully enters or attempts to unlawfully enter the property. This was expanded in Section 563.031 RSMo.

This section of law additionally provides that deadly force may be used by a person who occupies private property with the permission of the property owner. During legislative debate on SB 656, this provision often was called “the Babysitter Castle Doctrine” by lawmakers who supported its passage.

TIME EXTENSIONS FOR RENEWING CONCEALED CARRY PERMITS BY ACTIVE MILITARY MEMBERS
(Section 571.104 RSMo)
This section of law went into effect in September 2016. It allows military or National Guard members on active duty whose concealed weapons permits expire during their active duty or recovery from service-related injuries to renew their permits within two months after their return to Missouri after discharge from duty or recovery from their injuries or related incapacitation.
FEDERAL LAW ON DOMESTIC VIOLENCE AND FIREARMS
AND JUSTICE FOR ALL
Court Advocacy with Victims of Domestic and Sexual Violence
Third edition.
The Missouri Coalition Against Domestic and Sexual Violence (MCADSV)

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The likelihood of fatal injury to a survivor increases when abusers own and have access to weapons and have used them or threatened to use them in the past.  

While domestic violence remains primarily a matter of state and local jurisdiction, both VAWA and the federal Gun Control Act provide increased protection for victims by making certain crimes subject to federal jurisdiction. The Federal Bureau of Investigation is the lead federal investigative agency for VAWA violations, and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is the lead investigative agency for Gun Control Act violations. Prosecution for crimes committed under these acts is initiated by the Office of the U.S. Attorney. A list of the telephone numbers of U.S. Department of Justice investigative agencies in Missouri is on page 225.

**NO FIREARMS FOR RESPONDENTS TO ORDERS OF PROTECTION**

A 1997 amendment to the Gun Control Act of 1968 added individuals who are the subject of final, or full, protection orders to the list of persons prohibited from purchasing, receiving and possessing firearms (18 U.S.C. Section 922(g)(8)). The law prohibits anyone from selling or otherwise disposing of a firearm to persons who have civil protection orders issued against them.

These provisions apply to those with protection orders that restrain them from harassing, stalking, threatening or engaging in other conduct that would place “an intimate partner or the child of such intimate partner” in reasonable fear of bodily injury.

The person subject to the order, the respondent, must have received notice of the order and the opportunity to be heard by the court before the full order was issued. The protection order must include either:

- a specific finding that the respondent represents a credible threat to the physical safety of the intimate partner or child; or
- an explicit provision prohibiting such person from using, attempting to use or threatening to use physical force against the intimate partner or child that reasonably would be expected to cause bodily harm.

These restrictions do not apply to firearms issued by governmental agencies to law enforcement or military personnel when they are on duty (18 U.S.C. Section 925(a)(1) and Bureau of Alcohol, Tobacco, Firearms and Explosives interpretation).

However, personal firearms do not fall within this exemption. If prohibited under VAWA, law enforcement or military personnel cannot possess officially issued firearms when off duty.
FEDERAL GUN CONTROL ACT PROHIBITS BATTERERS FROM POSSESSING FIREARMS

NO FIREARMS FOR PEOPLE WITH “MISDEMEANOR CRIME OF DOMESTIC VIOLENCE” CONVICTIONS

The federal law further prohibits a person convicted of a “misdemeanor crime of domestic violence” from shipping, transporting, possessing or receiving firearms or ammunition, regardless of their profession. (18 U.S.C. Section 922(g)(9)).

A qualifying misdemeanor domestic violence crime is defined as an offense against an intimate partner that involves the use, or attempted use, of physical force or threatened use of a deadly weapon.

Law enforcement officers are not exempt from this federal prohibition. All law enforcement officers and government officials must relinquish their guns if they have been convicted of a domestic violence misdemeanor. This provision applies to firearms used by government agencies, firearms and ammunition purchased by officials for use in performing their official duties, and personal firearms and ammunition possessed by such officials.

The U.S. Supreme Court upheld this law in March 2014 (United States v. Castleman) when it said it is a crime for people convicted of misdemeanor domestic violence offenses, however minor, to possess guns. The case concerned interpretation of what degree of physical force or violence was necessary to qualify as a conviction for a “misdemeanor crime of domestic violence.” In the ruling, Justice Sonya Sotomayor wrote, “‘[d]omestic violence’ is not merely a type of ‘violence’; it is a term of art encompassing acts that one might not characterize as ‘violent’ in a nondomestic context.” By issuing a broad interpretation of the term “misdemeanor crime of domestic violence,” the court confirmed that guns should not be in the hands of perpetrators of domestic violence.

Questions about the enforcement of this section should be referred to the U.S. Attorney’s Office or Bureau of Alcohol, Tobacco, Firearms and Explosives office in your jurisdiction, which can be found at www.atf.gov/field.
FEDERAL GUN CONTROL ACT PROHIBITS BATTERERS FROM POSSESSING FIREARMS

FIREARMS PROHIBITIONS AND ORDERS OF PROTECTION

A federal court decision in 2003 addressed the issue of whether the federal firearms prohibitions apply when a protection order has been issued by consent (U.S. v. Calor, 340 F.3d 428, 432 (6th Cir. 2004)).

The court decided in the Calor case that a respondent can be prohibited from possessing firearms even if a formal protection order hearing is not held so long as the respondent had notice and an opportunity to participate. Because there is not wide agreement among judges on this issue, advocates still might want to suggest the petitioner request a hearing rather than have a consent order issued.

Whether an Order of Protection is granted after a full hearing or by consent, advocates should be sure there is language in the order that follows the language required in the federal Gun Control Act. As stated previously, the order should include either:

- a finding that the respondent represents a credible threat to the physical safety of the intimate partner or child; or
- an explicit provision prohibiting such person from using, attempting to use, or threatening to use physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

The Full Order of Protection form issued by the Missouri Office of State Courts Administrator includes the necessary language to invoke the firearms prohibitions. However, the form indicates that the firearms prohibitions only apply if there is a hearing. If an advocate’s jurisdiction does not use these pre-printed forms, she or he should be sure to have the appropriate statements regarding the federal firearms provisions added to the Full Order of Protection.

In addition, the petitioner can request language in the order that specifically prohibits the possession or purchase of a firearm so local law enforcement officers clearly can enforce the firearms prohibition.

Firearm issues can be confusing. Judges are not consistent in the way they deal with firearm restrictions for perpetrators of domestic violence. Therefore, this is an ongoing challenge for advocates to educate law enforcement, prosecutors, judges and legislators on the dangers of abusers possessing firearms.
FEDERAL GUN CONTROL ACT PROHIBITS BATTERERS FROM POSSESSING FIREARMS

ENFORCEMENT OF FIREARMS PROHIBITIONS

Important enforcement issues have arisen since the enactment of VAWA and related federal gun control legislation. These issues raise the following questions:

- How are the firearms prohibitions enforced?
- Who is responsible for removing the firearm?
- How do these laws apply to law enforcement officers and government agents with a history of domestic violence?

Several lawsuits by law enforcement officers have challenged the firearms provisions with respect to the ability of officers to carry weapons required in the performance of their duties. So far, courts have ruled that the provisions are valid.

Missouri still has no state law that parallels the federal law to prohibit domestic violence offenders from having firearms. Until Missouri passes such a law, advocates can continue to contact federal authorities for enforcement of the gun provisions of VAWA.

It is important to note that changes to Missouri law in 2011 allow judges to include any terms in an Order of Protection that the court reasonably deems necessary to ensure the petitioner’s safety. These terms could include a firearm restriction for the respondent.

If advocates think a gun control violation has occurred, they can contact the U.S. Attorney’s Office or the ATF for information needed to assist the victim involved.

PENALTIES FOR VIOLATIONS OF FIREARMS PROVISIONS

The maximum term of imprisonment for a violation of 18 U.S.C. Sections 922(g)(8) or 922(g)(9) is 10 years. The federal law is retroactive, which means that it applies to any misdemeanor conviction for a domestic violence offense, even if the conviction or guilty plea occurred prior to the domestic violence amendment of the Gun Control Act. However, the law does not apply to crimes that have been expunged or set aside, or if the person has been pardoned or had his or her civil rights restored.

KEY ADVOCACY CONCEPT

Changes to Missouri law in 2011 allow judges to include any terms in an Order of Protection that the court reasonably deems necessary to ensure the petitioner’s safety. These terms could include a firearm restriction for the respondent.
FOOTNOTES


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NEW MISSOURI LAW 2016

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- To review copies of all bills, go to www.moga.mo.gov.

- Select “Bill Search” from the menu bar, then enter the bill number in the search field. Select “Full Bill Text” from the next screen.

- To view the final version of a bill passed by the General Assembly, select the bill text identified as “Truly Agreed” on the bill text page.

If you would like to see how a bill progressed through this session, please refer to our monthly MCADSV Legislative Updates, which can be found on our website at www.mocadsv.org, under the “What We Do” tab and “Public Policy” header.
Judges may order transfer of family cell phone plans solely to petitioners in full orders of protection

Missouri Order of Protection laws were expanded to allow petitioners for the orders to retain their cell phone numbers and wireless services contracts separate from existing family plans with their abusers. This can be ordered by a judge as a provision of a Full Order of Protection. These cell phone orders can be sought by victims of domestic violence, dating violence, stalking and/or sexual assault who have shared wireless services plans and contracts with the person who has harmed them.

If certain conditions are met, and a judge includes the cell phone contract transfer in a protection order, wireless companies have three business days after receiving notice of the order to transfer family plan contracts solely to victims.

This additional protection order provision allows victims to keep their current cell phone numbers and thereby maintain important communications with their support systems. Survivors also can retain stored and needed information on their cell phones without that information and their real-time location being shared with their abusers. The cell phone provisions in protection orders can inhibit the ability of an abuser to stalk the petitioner or track the victims’ location, activities and phone calls through the instant access allowed through a shared cell phone plan.

Importantly, it remains a criminal offense for a respondent to a Full Order of Protection to contact or communicate with the petitioner by calling or texting the victim’s cell phone (Section 455.085 RSMo). This means that, even though the cell phone numbers of a victim and her children are known to the abuser, any calls to those numbers are documentation of a protection order violation.

Court authority to order transfer of cell phone family plans in protection orders (Section 455.050.9(1) RSMo)

This section of law establishes the legal authority for a judge to order a wireless services company, through a provision in a Full Order of Protection, to transfer cell phone numbers and accounts from a family plan to a separate account solely held by the petitioner for the order:

“The court may, in order to ensure that a petitioner can maintain an existing wireless telephone number or numbers, issue an order, after notice and an opportunity to be heard, directing a wireless service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner, if the petitioner is not the wireless service accountholder.”

Process for seeking a wireless account transfer (Section 455.050.9(1)-(3) RSMo)

This section of law details the process to transfer a cell phone/wireless services plan to a petitioner through a Full Order of Protection.

- A judge issues a Full Order of Protection that includes the cell phone transfer provision requested by a protection order petitioner (Section 455.050.9(1) RSMo).
• The order lists the name and billing telephone number of the accountholder, the name and contact information of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred to that person (Section 455.050.9(2)(a) RSMo).
  o This subsection also includes a **victim confidentiality rights provision**: “The court shall ensure that the contact information of the petitioner is not provided to the accountholder in proceedings held under this chapter.”

• A copy of the full protection order is sent to the wireless company or its registered agent (Section 455.050.9(2)(b) RSMo).

• The wireless services company has three business days after notice of the order to transfer the account. If the company cannot make the transfer within that period, it must contact the petitioner within three business days (Section 455.050.9(2)(c) RSMo).

• The wireless company transfers account billing responsibility and rights of the cell phone number(s) to the petitioner from the previous accountholder/respondent (Section 455.050.9(3)(a) RSMo).

PROVISIONS FOR TRANSFER OF PETITIONER’S CHILDREN’S CELL PHONES
(SECTION 455.523.2(9) RSMO)

This section adds an additional element to Full Child Orders of Protection that allows a judge to order a wireless services provider to transfer the cell phone number or numbers of any minor children in the petitioner’s care to the petitioner, if the petitioner is not the wireless services accountholder.

SITUATIONS WHEN A WIRELESS PLAN TRANSFER MAY NOT BE POSSIBLE
(SECTION 455.050.9(2)(C)a.-c. RSMo)

This section details the three situations when a wireless services company may not be able to transfer a family plan account to a protection order petitioner. These are when:

a) the accountholder already has terminated the account;

b) “The differences in network technology prevent the functionality of a device on the network;” and

c) “There are geographic or other limitations on network or service availability.”
MANDATORY REPORTING LAWS CLARIFIED
BULLYING ADDED AS ELEMENT OF ELDER, DISABLED PERSON ABUSE

A long-standing provision of Missouri law, mistakenly omitted from statutes, was reinstated to clarify that no mandatory reports are required for suspected abuse of elderly or disabled persons who are able to meet their own essential human needs and seek or obtain services for any needs or abuse against them. Elders are defined as those 60 and older.

The law clarifies that professionals who are legally mandated to report suspected incidents of abuse must do so for “eligible adults.” Eligible adults are unable to meet their own needs and obtain services.

Those who are statutorily required to report abuse of eligible adults are listed in Section 192.2405.1(2) RSMo.

DEFINITION OF ELIGIBLE ADULT FOR ELDER AND DISABLED PERSON ABUSE REPORTING (SECTION 192.2400(6) RSMo)

“‘Eligible adult,’ a person 60 years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in Section 192.2005 RSMo, between the ages of 18 and 59 who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs.”

BULLYING DEFINED AND ADDED AS ELEMENT OF ABUSE OF ELDERLY, DISABLED AND VULNERABLE ADULTS (SECTION 192.2400(1)-(2) RSMo)

An additional element of the legal definition of abuse in this section of Missouri law added bullying, which is defined as:

“Bullying, intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property and may consist of physical actions including gestures; cyberbullying; oral, electronic, or written communication; and any threat of retaliation for reporting of such acts.”

FIRST RESPONDERS ADDED AS MANDATED REPORTERS OF ABUSE OR NEGLECT OF ELDERS, DISABLED PERSONS AND IN-HOME SERVICES CLIENTS (SECTIONS 192.2405.4 and 192.2475 RSMo)

“First responders” are added to these sections of Missouri law that detail who is legally required to report incidents of suspected abuse or neglect of individuals who are elderly, disabled or vulnerable or those who are in-home services clients. First responders are defined as emergency first responders, police officers, sheriffs, deputy sheriffs, firefighters, emergency medical technicians or emergency medical technician-paramedics.

- Note: The above provision that defines the group of professionals who are defined as “first responders” was passed and signed into law as Senate Bill 732. A slightly different version was passed and signed into law as House Bill 2332, which separately lists, in Section 192.2405 RSMo, emergency medical technicians, firefighters and first responders as mandated reporters.
LOCAL LAW ENFORCEMENT AGENCIES REQUIRED TO REPORT ALL DOMESTIC VIOLENCE INCIDENTS TO HIGHWAY PATROL

Missouri law enforcement agencies are required to report to the Missouri State Highway Patrol “all reported incidents of domestic violence as defined in Section 455.010 RSMo, whether or not an arrest is made” (Section 43.545 RSMo). This information previously was submitted on a voluntary basis by local law enforcement agencies, but those reports of domestic violence incidents are now required to be submitted to the Highway Patrol for inclusion in its Annual Crime Report. The Highway Patrol is required to provide forms and instructions to local law enforcement agencies for their reporting of all domestic violence incidents. The first Missouri law about law enforcement agencies’ reporting of domestic violence was passed in 1991.

REQUIREMENTS ENHANCED FOR LAW ENFORCEMENT AGENCIES’ REPORTING OF DOMESTIC VIOLENCE HOMICIDES

The statutory requirements were changed for local and statewide law enforcement agencies’ reporting of domestic violence homicides to the Missouri State Highway Patrol.

LOCAL LAW ENFORCEMENT REPORTING REQUIREMENTS FOR DV HOMICIDES OR SUICIDES (SECTION 455.543.1 RSMo)

This section of law, first passed in 1998, removes previous timelines that set deadlines for local law enforcement agencies to submit reports on homicide or suicide investigations they determine to be related to acts of domestic violence. The law still mandates that these reports be sent to the Missouri State Highway Patrol but removes the requirement that law enforcement agencies send them within 15 days of identifying homicides or suicides as domestic violence related. The reports are required to contain gender and age of the victim, the type of incident investigated, the disposition of the incident and the relationship of the victim to the perpetrator.

FACTORS TO IDENTIFY A DOMESTIC VIOLENCE HOMICIDE OR SUICIDE (SECTION 455.543.2 RSMo)

The factors that local law enforcement agencies are to consider when determining if a homicide or suicide is related to domestic violence include:

- If the relationship between the perpetrator and the victim is or was that of a family or household member;
- Whether the victim or perpetrator had previously filed for an Order of Protection;
- Whether any of the subjects involved in the incident had previously been investigated for incidents of domestic violence; and
- Any other evidence regarding the homicide or suicide that assists the agency in making its determination.

ANNUAL STATEWIDE REPORT ON MISSOURI DOMESTIC VIOLENCE HOMICIDES AND SUICIDES (SECTION 455.545 RSMo)

This section of law was changed to require that the Missouri State Highway Patrol will issue an annual report by March of every year detailing the number of domestic violence homicides and suicides in Missouri. Previously, the statute required this annual report to be issued in February.
CAMPUS MOUs WITH LAW ENFORCEMENT AGENCIES ON SEXUAL AND DOMESTIC VIOLENCE

STATUTE
Section
173.2050 RSMo
PASSED AS
SB 921

UNIVERSITIES AND COLLEGES REQUIRED TO HAVE MOUs WITH LAW ENFORCEMENT AGENCIES TO ADDRESS SEXUAL ASSAULT, STALKING, DOMESTIC AND DATING VIOLENCE RESPONSES ON CAMPUSES

Missouri law was expanded to require universities and colleges to develop detailed Memorandums of Understanding (MOUs) with local law enforcement agencies on responses to sexual assault, domestic violence, dating violence and stalking. Rules and regulations to guide the implementation of this new law are to be developed by the Missouri Department of Public Safety in cooperation with the Department of Higher Education.

LEGAL REQUIREMENTS FOR COLLEGES AND UNIVERSITIES TO DEVELOP MOUs WITH LAW ENFORCEMENT (SECTION 173.2050.1 RSMo)

This section of law establishes the following requirements for Missouri universities and colleges:

“The governing board of each public institution of higher education in this state shall engage in discussions with law enforcement agencies with jurisdiction over the premises of an institution to develop and enter into a memorandum of understanding concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965, 20 U.S.C. Section 1092(f), involving students both on and off campus.”

CONTENT FOR MOUs BETWEEN COLLEGES AND LAW ENFORCEMENT (SECTION 173.2050.2 RSMo)

This section of law provides requirements for what is to be addressed through MOUs between colleges and law enforcement agencies:

“…shall contain detailed policies and protocols regarding sexual assault, domestic violence, dating violence, and stalking involving a student that comport with best practices and current professional practices. At a minimum, the memorandum shall set out procedural requirements for the reporting of an offense, protocol for establishing who has jurisdiction over an offense, and criteria for determining when an offense is to be reported to law enforcement.”

DOMESTIC VIOLENCE VICTIM RIGHTS

STATUTE
Section
595.209 RSMo
PASSED AS
SB 921

MANDATED VICTIM RIGHTS AND NOTIFICATIONS EXPANDED TO INCLUDE VICTIMS OF MISDEMEANOR DOMESTIC VIOLENCE CRIMES

Missouri law requires that victims of misdemeanor domestic violence assaults be notified of all court proceedings and offender release actions involving the offense against them. Previously, Section 595.209 RSMo mandated notification of victims of felony-level crimes and victims and/or witnesses of misdemeanor crimes had to submit written requests to be notified of court proceedings and the release of their offenders.
COMPROMISE EFFORTS RESULT IN MINIMAL CHILD CUSTODY LAW CHANGES

Compromises led to changes in Missouri child custody and visitation laws that differed significantly from those which were proposed through the legislative process. The minor changes to custody and visitation laws added new requirements for written notice to divorced parents on the availability of Family Access Motions to address visitation issues. Additional changes to the laws added requirements for electronic access to information on the development of parenting plans and for judges to issue written findings of fact in cases involving parents who cannot agree on child custody, child support and visitation.

Changes to Missouri custody and visitation laws that were proposed but did not occur would have required “50/50 shared parenting” as the default standard in all custody and visitation cases and would have weakened protections for domestic violence victims in custody cases. None of those provisions are contained in the final version of House Bill 1550 that was signed into law in July 2016 by Gov. Jay Nixon.

NEW GUIDELINES IN HANDBOOK ON PARENTING PLANS (SECTION 452.556.1(1) RSMo)

The Office of State Courts Administrator (OSCA) is directed in this section of law to add to its parenting plan handbook “guidelines as to what is included in a parenting plan in order to maximize to the highest degree the amount of time the child may spend with each parent.”

PARENTING PLAN GUIDELINES POSTED ON OSCA’S WEBSITE (SECTION 452.310.10 RSMo)

This section of law was changed to add, “Parenting plan guidelines shall be made available on the Office of State Courts Administrator’s [OSCA] website.” The provisions of Section 452.310 RSMo detail the process for petitioning for child custody, visitation, a motion for a family access order and a motion for contempt visitation.

CHILD SUPPORT AWARDS THAT DIFFER FROM GUIDELINES MUST BE DETAILED AS WRITTEN FINDINGS (SECTION 452.340.9 RSMo)

In this section of law that details the process for determining and awarding child support, Section 452.340.9 RSMo was changed to require that courts shall enter a written finding, or specific finding on the record of the case, if a child support award is made that deviates from the child support guidelines issued by the Supreme Court of Missouri. Previously, the law provided that a party to the child support case would have to request that these findings be entered into the written record of the case.

CHILD CUSTODY AWARDS TO BE DETAILED IN WRITTEN FINDINGS WHEN PARENTS CANNOT AGREE (SECTION 452.375.2 RSMo)

In this section of law that details the factors to be considered by a court when determining a custody award that is in the best interest of a child, additional language was added that requires the court to “enter written findings of fact and conclusions of law…”
CHILD CUSTODY AND VISITATION (CONT.)

GENDER NOT TO BE PRESUMPTIVE FACTOR IN CUSTODY AWARDS (SECTION 452.375.8 RSMo)
A provision was added to this section of law that states, “The court shall not presume that a parent, solely because of his or her sex, is more qualified than the other parent to act as a joint or sole legal or physical custodian for the child.” The previous law in this section, to which the additional language was added, remains unchanged. It states, “As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent’s age, sex, or financial status, nor because of the age or sex of the child.”

CHILD CUSTODY AND VISITATION ORDERS OR MODIFICATIONS TO CONTAIN DETAILS ON HOW TO FILE MOTIONS OF CONTEMPT OR FAMILY ACCESS MOTIONS (SECTION 452.375.10 RSMo)

COURTS CANNOT REQUIRE STANDARDIZED OR DEFAULT PARENTING PLANS; NOTICE REQUIRED TO PARTIES IN TEMPORARY CUSTODY ORDERS OR PARENTING PLANS (SECTION 452.375.11 RSMo)
This section of law was added to clarify that no Missouri courts are allowed to adopt “any local rule, form, or practice requiring a standardized or default parenting plan for interim, temporary, or permanent orders or judgments.” This section also adds a requirement that courts provide parties in a custody case with notice and a hearing before entering any temporary (“interim”) orders unless the parties agree with it.

ALLOWING “FREQUENT AND MEANINGFUL CONTACT” WITH THE OTHER PARENT ADDED AS A FACTOR TO BE CONSIDERED IN CUSTODY OR VISITATION MODIFICATION REQUESTS (SECTION 452.400.7 RSMo)
Additional language was added to this section of law on visitation rights that states, “The court shall consider, in a proceeding to enforce or modify a permanent custody or visitation order or judgment, a party’s violation, without good cause, of a provision of the parenting plan, for the purpose of determining that party’s ability and willingness to allow the child frequent and meaningful contact with the other party.”

STALKING

STALKING OR SEEKING THE ADDRESS OF SAFE AT HOME PARTICIPANTS ADDED TO FIRST DEGREE/AGGRAVATED STALKING CRIMES
In Section 565.225 RSMo, the Missouri law that defines the crime of aggravated stalking was expanded to include the element of stalking a participant in the Safe at Home address confidentiality program or actions taken to obtain the address of someone protected through the Safe at Home program. On January 1, 2017, the offense of aggravated stalking will become “stalking, first degree” when revisions to the Missouri Criminal Code take effect.
PRIVACY PROTECTIONS FOR CHILD VICTIMS, SEXUAL AND DOMESTIC VIOLENCE SURVIVORS

PRIVACY PROTECTIONS STRENGTHENED FOR FORENSIC EVIDENCE AND INFORMATION IN CHILD SEXUAL ABUSE CASES; ENHANCED PRIVACY RIGHTS ADDED REGARDING COURT RECORDS OF SEXUAL AND DOMESTIC VIOLENCE OFFENSES

Missouri laws that protect the privacy of child victims of sexual offense were expanded to provide additional restrictions on sharing information from forensic interviews and examinations.

RESTRICTIONS ON RELEASING INFORMATION GAINED FROM FORENSIC EXAMS OF CHILD VICTIMS (SECTIONS 510.035 AND 545.950 RSMo)

These sections of law limit the release of information related to a child or minor victim of a sexual offense. They detail the manner in which the information can be shared and to whom. A requirement was added for a court order or actions in accordance with Supreme Court rules for the release of photographs or recordings of a minor who was a victim of a sexual offense. This applies to information or materials that originate as part of an assessment, forensic exam or interview by a health care provider, a child advocacy center or a multidisciplinary investigative team member.

COURTS TO REDACT ADDITIONAL IDENTIFYING INFORMATION FROM PUBLIC RECORDS (SECTION 595.226 RSMo)

The changes made to this section of Missouri law place additional restrictions on the release of written and electronic information contained in court records that could personally identify crime victims, including photographs and recordings of interviews. These protections apply to both child and adult victims of sexual offenses, as well as victims of domestic violence and stalking. This section of law still requires the redaction of victims’ identifying information from court records, specifically names, addresses, phone numbers, workplaces, Social Security numbers and physical characteristics.

TEEN DATING VIOLENCE AWARENESS MONTH

FEBRUARY DESIGNATED AS TEEN DATING VIOLENCE AWARENESS MONTH

The month of February was statutorily designated as “Teen Dating Violence Awareness Month” in Missouri. The language added to Missouri law in Section 9.172 RSMo states, “One in three teens in the United States will experience physical, sexual, or emotional abuse by someone with whom they are in relationship before they become adults. The citizens of this state are encouraged to observe the month with appropriate activities and events to raise awareness of abuse in teen relationships.”
ELEMENTARY AND SECONDARY SCHOOLS REQUIRED TO ENHANCE BULLYING AND SUICIDE PREVENTION EFFORTS

Missouri laws that require school districts to have policies and procedures to address bullying were expanded, and additional sections of law were added to require school districts to undertake youth suicide prevention efforts.

BULLYING DEFINITION CHANGED (SECTION 160.775.1 RSMo)

The definition of bullying in this section of law was expanded to include “unwanted aggressive behavior” and harassment “that is repetitive or is substantially likely to be repeated.” Cyber-bullying also was included in the definition as “the transmission of a communication including, but not limited to, a message, text, sound, or image by means of an electronic device including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager.” An additional provision added, “Bullying of students is prohibited on school property, at any school function, or on a school bus.”

PEER-TO-PEER EFFORTS ADDED AS ASPECT OF SCHOOL ANTI-BULLYING INITIATIVES (SECTION 160.775.4(7)(C) RSMo)

New language was added to this section of law as a result of MCADSV advocacy to allow student peer-to-peer programs and initiatives as part of school anti-bullying programs.

SUICIDE PREVENTION PROGRAMS AND TEACHER TRAINING (SECTION 170.047 RSMo)

Missouri law in this section requires school districts to develop policies and strategies to identify students who are at risk of suicide (by July 1, 2018). This section also adds new teacher certification requirements of two hours of youth suicide awareness and prevention training for teachers.

CRIME VICTIMS’ COMPENSATION

SERVICES PROVIDED BY PSYCHIATRIC MENTAL HEALTH NURSES ELIGIBLE FOR VICTIM COMPENSATION PAYMENTS

An expansion of the types of psychiatric and counseling services that Missouri law allows to be reimbursed through the Crime Victims’ Compensation program added crime victim services provided by Board-certified psychiatric mental health clinical nurse specialists and psychiatric mental health nurse practitioners (Section 595.030.4(5) RSMo).
HUMAN TRAFFICKING

CHANGES MADE TO SEX TRAFFICKING OFFENSES; HUMAN TRAFFICKING VICTIMS ADDED TO SAFE AT HOME PROGRAM

Legislation to enhance responses to human trafficking was one of the few bills that was passed in 2016 by unanimous votes in the Missouri House and Senate.

SEX TRAFFICKING CRIMES EXPANDED TO INCLUDE ADVERTISING AVAILABILITY OF AN ADULT OR CHILD (SECTIONS 566.209 RSMo AND 566.210-212 RSMo)

These sections of law were expanded to add an element to the crime of sex trafficking that a person advertises the availability of an adult or child for sexual activities. Sex trafficking of adults is the crime of "trafficking for the purposes of sexual exploitation" (Section 566.209 RSMo). Sex trafficking of children is designated as different degrees of the crime of "sexual trafficking of a child" (Sections 566.210-212 RSMo).

TRAFFICKING VICTIMS ELIGIBLE TO PARTICIPATE IN SAFE AT HOME PROGRAM (SECTION 589.660 RSMo)

Victims of all forms of human trafficking were added as eligible participants in the Safe at Home program, an address confidentiality program operated by the Missouri Secretary of State's office. In addition to trafficking victims, the Safe at Home program continues to provide an alternate legal mailing address for victims of domestic violence, sexual assault and stalking.

PUBLIC ASSISTANCE PROGRAMS

LEGISLATIVE “JOINT COMMITTEE ON PUBLIC ASSISTANCE” ESTABLISHED TO STUDY MISSOURI BENEFIT PROGRAMS

Missouri Senators and Representatives will be appointed to serve on a permanently established “Joint Committee on Public Assistance” to study all public assistance programs (Section 208.952 RSMo). The committee is required to hold public hearings, review all programs and make recommendations for any legislative changes to public assistance programs.

PRIVATE COMPANY TO BE CONTRACTED TO CONDUCT ELIGIBILITY VERIFICATIONS FOR PUBLIC ASSISTANCE BENEFITS

The Missouri Department of Social Services (DSS) is required to contract with a business that will conduct eligibility reviews for public assistance applicants, including Temporary Aid for Needy Families (TANF), food stamps, child care assistance and MO HealthNet. DSS retains the authority to make all final determinations of an applicant’s eligibility for public assistance programs and benefits (Section 208.065 RSMo).
EXPUNGEMENT OF CRIMINAL CONVICTIONS

PROCESS ESTABLISHED FOR EXPUNGEMENT OF CRIMINAL CONVICTIONS THROUGH SEALING RECORDS OF CONVICTIONS

Missouri laws were changed to establish an expanded expungement process that seals the public records of criminal convictions through a court process (Section 610.140 RSMo). MCADSV advocacy gained provisions in the law that do not allow expungement of domestic violence misdemeanor and felony offenses, including violations of Orders of Protection. Expungement of convictions for sexual offenses are not allowed.

Expungement is allowed for one felony conviction per lifetime after five years with no other convictions and expungement of up to two misdemeanor convictions after three years with no other convictions. A person who has been granted expungement of a felony or misdemeanor criminal offense, who has no other criminal convictions, can legally answer “no” to questions about criminal convictions on a job application or other employment related documents. The exception to this section of Missouri expungement law, Section 610.140 RSMo, is for responses on job applications for positions with employers who are prohibited by state or federal law from hiring individuals with criminal convictions.

JUDGE CAN WAIVE $250 COST FOR FILING EXPUNGEMENT PETITIONS (SECTION 488.650 RSMo)

This section of law allows a judge to waive the $250 surcharge for filing a petition for a criminal conviction expungement for a petitioner who is indigent.

ANNOUNCING THE FOURTH EDITION OF AND JUSTICE FOR ALL

And Justice For All is the manual for anyone who is helping survivors of domestic or sexual violence through the legal system. It covers just about every aspect of legal advocacy, including steps on how to fill out Missouri protection orders, what’s important in child custody cases and when abusers are forbidden from owning firearms.

The Fourth Edition contains:

- Content on 2017 revised Missouri Criminal Code
- Sexual assault Orders of Protection
- New Missouri laws that will affect survivors

Watch for the release in early 2017.