

SECOND REGULAR SESSION

[CORRECTED]

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1550

98TH GENERAL ASSEMBLY

4372S.06T

2016

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## AN ACT

To repeal sections 452.310, 452.340, 452.375, 452.400, 452.556, 454.849, and 454.1728 RSMo, and to enact in lieu thereof seven new sections relating to child custody orders, with existing penalty provisions.

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

Section A. Sections 452.310, 452.340, 452.375, 452.400, 452.556, 454.849, and  
2 454.1728, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as  
3 sections 452.310, 452.340, 452.375, 452.400, 452.556, 454.849, and 454.1728, to read as  
4 follows:

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a  
2 motion to modify, a motion for a family access order and a motion for contempt shall be verified.  
3 The petition in a proceeding for dissolution of marriage shall allege that the marriage is  
4 irretrievably broken and that therefore there remains no reasonable likelihood that the marriage  
5 can be preserved. The petition in a proceeding for legal separation shall allege that the marriage  
6 is not irretrievably broken and that therefore there remains a reasonable likelihood that the  
7 marriage can be preserved.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8           2. The petition in a proceeding for dissolution of marriage or legal separation shall set  
9 forth:

10           (1) The residence of each party, including the county, and the length of residence of each  
11 party in this state and in the county of residence;

12           (2) The date of the marriage and the place at which it is registered;

13           (3) The date on which the parties separated;

14           (4) The name, age, and address of each child, and the parent with whom each child has  
15 primarily resided for the sixty days immediately preceding the filing of the petition for  
16 dissolution of marriage or legal separation;

17           (5) Whether the wife is pregnant;

18           (6) The last four digits of the Social Security number of the petitioner, respondent and  
19 each child;

20           (7) Any arrangements as to the custody and support of the children and the maintenance  
21 of each party; and

22           (8) The relief sought.

23           3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal  
24 separation, each child shall immediately be subject to the jurisdiction of the court in which the  
25 proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the  
26 child is pending in juvenile court. Until permitted by order of the court, neither parent shall  
27 remove any child from the jurisdiction of the court or from any parent with whom the child has  
28 primarily resided for the sixty days immediately preceding the filing of a petition for dissolution  
29 of marriage or legal separation.

30           4. The mere fact that one parent has actual possession of the child at the time of filing  
31 shall not create a preference in favor of such parent in any judicial determination regarding  
32 custody of the child.

33           5. The respondent shall be served in the manner provided by the rules of the supreme  
34 court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a  
35 verified answer within thirty days of the date of service which shall not only admit or deny the  
36 allegations of the petition, but shall also set forth:

37           (1) The last four digits of the Social Security number of the petitioner, respondent and  
38 each child;

39           (2) Any arrangements as to the custody and support of the child and the maintenance of  
40 each party; and

41           (3) The relief sought.

42           6. Previously existing defenses to divorce and legal separation, including but not limited  
43 to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

44           7. The full Social Security number of each party and each child and the date of birth of  
45 each child shall be provided in the manner required under section 509.520.

46           8. The petitioner and respondent shall submit a proposed parenting plan, either  
47 individually or jointly, within thirty days after service of process or the filing of the entry of  
48 appearance, whichever event first occurs of a motion to modify or a petition involving custody  
49 or visitation issues. The proposed parenting plan shall set forth the arrangements that the party  
50 believes to be in the best interest of the minor children and shall include but not be limited to:

51           (1) A specific written schedule detailing the custody, visitation and residential time for  
52 each child with each party including:

53           (a) Major holidays stating which holidays a party has each year;

54           (b) School holidays for school-age children;

55           (c) The child's birthday, Mother's Day and Father's Day;

56           (d) Weekday and weekend schedules and for school-age children how the winter, spring,  
57 summer and other vacations from school will be spent;

58           (e) The times and places for transfer of the child between the parties in connection with  
59 the residential schedule;

60           (f) A plan for sharing transportation duties associated with the residential schedule;

61           (g) Appropriate times for telephone access;

62           (h) Suggested procedures for notifying the other party when a party requests a temporary  
63 variation from the residential schedule;

64           (i) Any suggested restrictions or limitations on access to a party and the reasons such  
65 restrictions are requested;

66           (2) A specific written plan regarding legal custody which details how the  
67 decision-making rights and responsibilities will be shared between the parties including the  
68 following:

69           (a) Educational decisions and methods of communicating information from the school  
70 to both parties;

71           (b) Medical, dental and health care decisions including how health care providers will  
72 be selected and a method of communicating medical conditions of the child and how emergency  
73 care will be handled;

74           (c) Extracurricular activities, including a method for determining which activities the  
75 child will participate in when those activities involve time during which each party is the  
76 custodian;

77           (d) Child care providers, including how such providers will be selected;

78           (e) Communication procedures including access to telephone numbers as appropriate;

79 (f) A dispute resolution procedure for those matters on which the parties disagree or in  
80 interpreting the parenting plan;

81 (g) If a party suggests no shared decision-making, a statement of the reasons for such a  
82 request;

83 (3) How the expenses of the child, including child care, educational and extraordinary  
84 expenses as defined in the child support guidelines established by the supreme court, will be paid  
85 including:

86 (a) The suggested amount of child support to be paid by each party;

87 (b) The party who will maintain or provide health insurance for the child and how the  
88 medical, dental, vision, psychological and other health care expenses of the child not paid by  
89 insurance will be paid by the parties;

90 (c) The payment of educational expenses, if any;

91 (d) The payment of extraordinary expenses of the child, if any;

92 (e) Child care expenses, if any;

93 (f) Transportation expenses, if any.

94 9. If the proposed parenting plans of the parties differ and the parties cannot resolve the  
95 differences or if any party fails to file a proposed parenting plan, upon motion of either party and  
96 an opportunity for the parties to be heard, the court shall enter a temporary order containing a  
97 parenting plan setting forth the arrangements specified in subsection 8 of this section which will  
98 remain in effect until further order of the court. The temporary order entered by the court shall  
99 not create a preference for the court in its adjudication of final custody, child support or  
100 visitation.

101 10. [Within one hundred twenty days after August 28, 1998,] The Missouri supreme  
102 court shall have [in effect] guidelines for a parenting plan [form] which may be used by the  
103 parties pursuant to this section in any dissolution of marriage, legal separation or modification  
104 proceeding involving issues of custody and visitation relating to the child. **Parenting plan  
105 guidelines shall be made available on the office of state courts administrator's website.**

106 11. The filing of a parenting plan for any child over the age of eighteen for whom  
107 custody, visitation, or support is being established or modified by a court of competent  
108 jurisdiction is not required. Nothing in this section shall be construed as precluding the filing  
109 of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child  
110 over the age of eighteen for whom custody, visitation, or support is being established or modified  
111 by a court of competent jurisdiction.

452.340. 1. In a proceeding for dissolution of marriage, legal separation or child support,  
2 the court may order either or both parents owing a duty of support to a child of the marriage to  
3 pay an amount reasonable or necessary for the support of the child, including an award

4 retroactive to the date of filing the petition, without regard to marital misconduct, after  
5 considering all relevant factors including:

6 (1) The financial needs and resources of the child;

7 (2) The financial resources and needs of the parents;

8 (3) The standard of living the child would have enjoyed had the marriage not been  
9 dissolved;

10 (4) The physical and emotional condition of the child, and the child's educational needs;

11 (5) The child's physical and legal custody arrangements, including the amount of time  
12 the child spends with each parent and the reasonable expenses associated with the custody or  
13 visitation arrangements; and

14 (6) The reasonable work-related child care expenses of each parent.

15 2. The obligation of the parent ordered to make support payments shall abate, in whole  
16 or in part, for such periods of time in excess of thirty consecutive days that the other parent has  
17 voluntarily relinquished physical custody of a child to the parent ordered to pay child support,  
18 notwithstanding any periods of visitation or temporary physical and legal or physical or legal  
19 custody pursuant to a judgment of dissolution or legal separation or any modification thereof.  
20 In a IV-D case, the family support division may determine the amount of the abatement pursuant  
21 to this subsection for any child support order and shall record the amount of abatement in the  
22 automated child support system record established pursuant to chapter 454. If the case is not a  
23 IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the  
24 automated child support system record established in chapter 454.

25 3. Unless the circumstances of the child manifestly dictate otherwise and the court  
26 specifically so provides, the obligation of a parent to make child support payments shall  
27 terminate when the child:

28 (1) Dies;

29 (2) Marries;

30 (3) Enters active duty in the military;

31 (4) Becomes self-supporting, provided that the custodial parent has relinquished the child  
32 from parental control by express or implied consent;

33 (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply;  
34 or

35 (6) Reaches age twenty-one, unless the provisions of the child support order specifically  
36 extend the parental support order past the child's twenty-first birthday for reasons provided by  
37 subsection 4 of this section.

38           4. If the child is physically or mentally incapacitated from supporting himself and  
39 insolvent and unmarried, the court may extend the parental support obligation past the child's  
40 eighteenth birthday.

41           5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary  
42 school program of instruction, the parental support obligation shall continue, if the child  
43 continues to attend and progresses toward completion of said program, until the child completes  
44 such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an  
45 institution of vocational or higher education not later than October first following graduation  
46 from a secondary school or completion of a graduation equivalence degree program and so long  
47 as the child enrolls for and completes at least twelve hours of credit each semester, not including  
48 the summer semester, at an institution of vocational or higher education and achieves grades  
49 sufficient to reenroll at such institution, the parental support obligation shall continue until the  
50 child completes his or her education, or until the child reaches the age of twenty-one, whichever  
51 first occurs. To remain eligible for such continued parental support, at the beginning of each  
52 semester the child shall submit to each parent a transcript or similar official document provided  
53 by the institution of vocational or higher education which includes the courses the child is  
54 enrolled in and has completed for each term, the grades and credits received for each such  
55 course, and an official document from the institution listing the courses which the child is  
56 enrolled in for the upcoming term and the number of credits for each such course. When  
57 enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his  
58 or her courseload in any one semester, payment of child support may be terminated and shall not  
59 be eligible for reinstatement. Upon request for notification of the child's grades by the  
60 noncustodial parent, the child shall produce the required documents to the noncustodial parent  
61 within thirty days of receipt of grades from the education institution. If the child fails to produce  
62 the required documents, payment of child support may terminate without the accrual of any child  
63 support arrearage and shall not be eligible for reinstatement. If the circumstances of the child  
64 manifestly dictate, the court may waive the October first deadline for enrollment required by this  
65 subsection. If the child is enrolled in such an institution, the child or parent obligated to pay  
66 support may petition the court to amend the order to direct the obligated parent to make the  
67 payments directly to the child. As used in this section, an "institution of vocational education"  
68 means any postsecondary training or schooling for which the student is assessed a fee and attends  
69 classes regularly. "Higher education" means any community college, college, or university at  
70 which the child attends classes regularly. A child who has been diagnosed with a developmental  
71 disability, as defined in section 630.005, or whose physical disability or diagnosed health  
72 problem limits the child's ability to carry the number of credit hours prescribed in this subsection,  
73 shall remain eligible for child support so long as such child is enrolled in and attending an

74 institution of vocational or higher education, and the child continues to meet the other  
75 requirements of this subsection. A child who is employed at least fifteen hours per week during  
76 the semester may take as few as nine credit hours per semester and remain eligible for child  
77 support so long as all other requirements of this subsection are complied with.

78         6. The court shall consider ordering a parent to waive the right to claim the tax  
79 dependency exemption for a child enrolled in an institution of vocational or higher education in  
80 favor of the other parent if the application of state and federal tax laws and eligibility for  
81 financial aid will make an award of the exemption to the other parent appropriate.

82         7. The general assembly finds and declares that it is the public policy of this state that  
83 frequent, continuing and meaningful contact with both parents after the parents have separated  
84 or dissolved their marriage is in the best interest of the child except for cases where the court  
85 specifically finds that such contact is not in the best interest of the child. In order to effectuate  
86 this public policy, a court with jurisdiction shall enforce visitation, custody and child support  
87 orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or  
88 future obligation of support and may transfer the physical and legal or physical or legal custody  
89 of one or more children if it finds that a parent has, without good cause, failed to provide  
90 visitation or physical and legal or physical or legal custody to the other parent pursuant to the  
91 terms of a judgment of dissolution, legal separation or modifications thereof. The court shall  
92 also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court  
93 costs incurred by the prevailing party.

94         8. The Missouri supreme court shall have in effect a rule establishing guidelines by  
95 which any award of child support shall be made in any judicial or administrative proceeding.  
96 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a  
97 computation of the support obligation. The guidelines shall address how the amount of child  
98 support shall be calculated when an award of joint physical custody results in the child or  
99 children spending equal or substantially equal time with both parents and the directions and  
100 comments and any tabular representations of the directions and comments for completion of the  
101 child support guidelines and a subsequent form developed to reflect the guidelines shall reflect  
102 the ability to obtain up to a fifty percent adjustment or credit below the basic child support  
103 amount for joint physical custody or visitation as described in subsection 11 of this section. The  
104 Missouri supreme court shall publish child support guidelines and specifically list and explain  
105 the relevant factors and assumptions that were used to calculate the child support guidelines.  
106 Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less  
107 than once every four years to ensure that its application results in the determination of  
108 appropriate child support award amounts.

109           9. There shall be a rebuttable presumption, in any judicial or administrative proceeding  
110 for the award of child support, that the amount of the award which would result from the  
111 application of the guidelines established pursuant to subsection 8 of this section is the correct  
112 amount of child support to be awarded. A written finding or specific finding on the record in a  
113 judicial or administrative proceeding that the application of the guidelines would be unjust or  
114 inappropriate in a particular case, after considering all relevant factors, including the factors set  
115 out in subsection 1 of this section, [is] **shall be** required [if requested by a party] and shall be  
116 sufficient to rebut the presumption in the case. The written finding or specific finding on the  
117 record shall detail the specific relevant factors that required a deviation from the application of  
118 the guidelines.

119           10. Pursuant to this or any other chapter, when a court determines the amount owed by  
120 a parent for support provided to a child by another person, other than a parent, prior to the date  
121 of filing of a petition requesting support, or when the director of the family support division  
122 establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section  
123 454.465, the court or director shall use the guidelines established pursuant to subsection 8 of this  
124 section. The amount of child support resulting from the application of the guidelines shall be  
125 applied retroactively for a period prior to the establishment of a support order and the length of  
126 the period of retroactivity shall be left to the discretion of the court or director. There shall be  
127 a rebuttable presumption that the amount resulting from application of the guidelines under  
128 subsection 8 of this section constitutes the amount owed by the parent for the period prior to the  
129 date of the filing of the petition for support or the period for which state debt is being established.  
130 In applying the guidelines to determine a retroactive support amount, when information as to  
131 average monthly income is available, the court or director may use the average monthly income  
132 of the noncustodial parent, as averaged over the period of retroactivity, in determining the  
133 amount of presumed child support owed for the period of retroactivity. The court or director may  
134 enter a different amount in a particular case upon finding, after consideration of all relevant  
135 factors, including the factors set out in subsection 1 of this section, that there is sufficient cause  
136 to rebut the presumed amount.

137           11. The court may award child support in an amount that provides up to a fifty percent  
138 adjustment below the basic child support amount authorized by the child support guidelines  
139 described under subsection 8 of this section for custody awards of joint physical custody where  
140 the child or children spend equal or substantially equal time with both parents.

141           12. The obligation of a parent to make child support payments may be terminated as  
142 follows:

143           (1) Provided that the state case registry or child support order contains the child's date  
144 of birth, the obligation shall be deemed terminated without further judicial or administrative



145 process when the child reaches age twenty-one if the child support order does not specifically  
146 require payment of child support beyond age twenty-one for reasons provided by subsection 4  
147 of this section;

148 (2) The obligation shall be deemed terminated without further judicial or administrative  
149 process when the parent receiving child support furnishes a sworn statement or affidavit  
150 notifying the obligor parent of the child's emancipation in accordance with the requirements of  
151 subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the  
152 court which entered the order establishing the child support obligation, or the family support  
153 division for an order entered under section 454.470;

154 (3) The obligation shall be deemed terminated without further judicial or administrative  
155 process when the parent paying child support files a sworn statement or affidavit with the court  
156 which entered the order establishing the child support obligation, or the family support division  
157 for an order entered under section 454.470, stating that the child is emancipated and reciting the  
158 factual basis for such statement; which statement or affidavit is served by the court or division,  
159 as applicable, on the child support obligee; and which is either acknowledged and affirmed by  
160 the child support obligee in writing, or which is not responded to in writing within thirty days  
161 of receipt by the child support obligee;

162 (4) The obligation shall be terminated as provided by this subdivision by the court which  
163 entered the order establishing the child support obligation, or the family support division for an  
164 order entered under section 454.470, when the parent paying child support files a sworn  
165 statement or affidavit with the court which entered the order establishing the child support  
166 obligation, or the family support division, as applicable, stating that the child is emancipated and  
167 reciting the factual basis for such statement; and which statement or affidavit is served by the  
168 court or division, as applicable, on the child support obligee. If the obligee denies the statement  
169 or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a  
170 request for hearing and shall proceed to hear and adjudicate such request for hearing as provided  
171 by law; provided that the court may require the payment of a deposit as security for court costs  
172 and any accrued court costs, as provided by law, in relation to such request for hearing. When  
173 the division receives a request for hearing, the hearing shall be held in the manner provided by  
174 section 454.475.

175 13. The court may enter a judgment terminating child support pursuant to subdivisions  
176 (1) to (3) of subsection 12 of this section without necessity of a court appearance by either party.  
177 The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant  
178 to subsection 12 of this section on both the obligor and obligee parents. The supreme court may  
179 promulgate uniform forms for sworn statements and affidavits to terminate orders of child

180 support obligations for use pursuant to subsection 12 of this section and subsection 4 of section  
181 452.370.

452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

2 (1) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole  
3 physical custody or any combination thereof;

4 (2) "Joint legal custody" means that the parents share the decision-making rights,  
5 responsibilities, and authority relating to the health, education and welfare of the child, and,  
6 unless allocated, apportioned, or decreed, the parents shall confer with one another in the  
7 exercise of decision-making rights, responsibilities, and authority;

8 (3) "Joint physical custody" means an order awarding each of the parents significant, but  
9 not necessarily equal, periods of time during which a child resides with or is under the care and  
10 supervision of each of the parents. Joint physical custody shall be shared by the parents in such  
11 a way as to assure the child of frequent, continuing and meaningful contact with both parents;

12 (4) "Third-party custody" means a third party designated as a legal and physical  
13 custodian pursuant to subdivision (5) of subsection 5 of this section.

14 2. The court shall determine custody in accordance with the best interests of the child.  
15 [The court] **When the parties have not reached an agreement on all issues related to**  
16 **custody, the court** shall consider all relevant factors [including] **and enter written findings of**  
17 **fact and conclusions of law, including, but not limited to, the following:**

18 (1) The wishes of the child's parents as to custody and the proposed parenting plan  
19 submitted by both parties;

20 (2) The needs of the child for a frequent, continuing and meaningful relationship with  
21 both parents and the ability and willingness of parents to actively perform their functions as  
22 mother and father for the needs of the child;

23 (3) The interaction and interrelationship of the child with parents, siblings, and any other  
24 person who may significantly affect the child's best interests;

25 (4) Which parent is more likely to allow the child frequent, continuing and meaningful  
26 contact with the other parent;

27 (5) The child's adjustment to the child's home, school, and community;

28 (6) The mental and physical health of all individuals involved, including any history of  
29 abuse of any individuals involved. If the court finds that a pattern of domestic violence as  
30 defined in section 455.010 has occurred, and, if the court also finds that awarding custody to the  
31 abusive parent is in the best interest of the child, then the court shall enter written findings of fact  
32 and conclusions of law. Custody and visitation rights shall be ordered in a manner that best  
33 protects the child and any other child or children for whom the parent has custodial or visitation

34 rights, and the parent or other family or household member who is the victim of domestic  
35 violence from any further harm;

36 (7) The intention of either parent to relocate the principal residence of the child; and

37 (8) The wishes of a child as to the child's custodian. The fact that a parent sends his or  
38 her child or children to a home school, as defined in section 167.031, shall not be the sole factor  
39 that a court considers in determining custody of such child or children.

40 3. (1) In any court proceedings relating to custody of a child, the court shall not award  
41 custody or unsupervised visitation of a child to a parent if such parent or any person residing with  
42 such parent has been found guilty of, or pled guilty to, any of the following offenses when a child  
43 was the victim:

44 (a) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,  
45 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,  
46 566.209, 566.212, or 566.215;

47 (b) A violation of section 568.020;

48 (c) A violation of subdivision (2) of subsection 1 of section 568.060;

49 (d) A violation of section 568.065;

50 (e) A violation of section 568.080;

51 (f) A violation of section 568.090; or

52 (g) A violation of section 568.175.

53 (2) For all other violations of offenses in chapters 566 and 568 not specifically listed in  
54 subdivision (1) of this subsection or for a violation of an offense committed in another state  
55 when a child is the victim that would be a violation of chapter 566 or 568 if committed in  
56 Missouri, the court may exercise its discretion in awarding custody or visitation of a child to a  
57 parent if such parent or any person residing with such parent has been found guilty of, or pled  
58 guilty to, any such offense.

59 4. The general assembly finds and declares that it is the public policy of this state that  
60 frequent, continuing and meaningful contact with both parents after the parents have separated  
61 or dissolved their marriage is in the best interest of the child, except for cases where the court  
62 specifically finds that such contact is not in the best interest of the child, and that it is the public  
63 policy of this state to encourage parents to participate in decisions affecting the health, education  
64 and welfare of their children, and to resolve disputes involving their children amicably through  
65 alternative dispute resolution. In order to effectuate these policies, the court shall determine the  
66 custody arrangement which will best assure both parents participate in such decisions and have  
67 frequent, continuing and meaningful contact with their children so long as it is in the best  
68 interests of the child.

69           5. Prior to awarding the appropriate custody arrangement in the best interest of the child,  
70 the court shall consider each of the following as follows:

71           (1) Joint physical and joint legal custody to both parents, which shall not be denied  
72 solely for the reason that one parent opposes a joint physical and joint legal custody award. The  
73 residence of one of the parents shall be designated as the address of the child for mailing and  
74 educational purposes;

75           (2) Joint physical custody with one party granted sole legal custody. The residence of  
76 one of the parents shall be designated as the address of the child for mailing and educational  
77 purposes;

78           (3) Joint legal custody with one party granted sole physical custody;

79           (4) Sole custody to either parent; or

80           (5) Third-party custody or visitation:

81           (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian,  
82 or the welfare of the child requires, and it is in the best interests of the child, then custody,  
83 temporary custody or visitation may be awarded to any other person or persons deemed by the  
84 court to be suitable and able to provide an adequate and stable environment for the child. Before  
85 the court awards custody, temporary custody or visitation to a third person under this  
86 subdivision, the court shall make that person a party to the action;

87           (b) Under the provisions of this subsection, any person may petition the court to  
88 intervene as a party in interest at any time as provided by supreme court rule.

89           6. If the parties have not agreed to a custodial arrangement, or the court determines such  
90 arrangement is not in the best interest of the child, the court shall include a written finding in the  
91 judgment or order based on the public policy in subsection 4 of this section and each of the  
92 factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific  
93 relevant factors that made a particular arrangement in the best interest of the child. If a proposed  
94 custodial arrangement is rejected by the court, the court shall include a written finding in the  
95 judgment or order detailing the specific relevant factors resulting in the rejection of such  
96 arrangement.

97           7. Upon a finding by the court that either parent has refused to exchange information  
98 with the other parent, which shall include but not be limited to information concerning the  
99 health, education and welfare of the child, the court shall order the parent to comply immediately  
100 and to pay the prevailing party a sum equal to the prevailing party's cost associated with  
101 obtaining the requested information, which shall include but not be limited to reasonable  
102 attorney's fees and court costs.

103           8. As between the parents of a child, no preference may be given to either parent in the  
104 awarding of custody because of that parent's age, sex, or financial status, nor because of the age

105 or sex of the child. **The court shall not presume that a parent, solely because of his or her**  
106 **sex, is more qualified than the other parent to act as a joint or sole legal or physical**  
107 **custodian for the child.**

108 9. Any judgment providing for custody shall include a specific written parenting plan  
109 setting forth the terms of such parenting plan arrangements specified in subsection [7] **8** of  
110 section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section  
111 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody  
112 plan approved and ordered by the court shall be in the court's discretion and shall be in the best  
113 interest of the child.

114 **10. After August 28, 2016, every court order establishing or modifying custody or**  
115 **visitation shall include the following language: "In the event of noncompliance with this**  
116 **order, the aggrieved party may file a verified motion for contempt. If custody, visitation,**  
117 **or third-party custody is denied or interfered with by a parent or third party without good**  
118 **cause, the aggrieved person may file a family access motion with the court stating the**  
119 **specific facts that constitute a violation of the custody provisions of the judgment of**  
120 **dissolution, legal separation, or judgment of paternity. The circuit clerk will provide the**  
121 **aggrieved party with an explanation of the procedures for filing a family access motion and**  
122 **a simple form for use in filing the family access motion. A family access motion does not**  
123 **require the assistance of legal counsel to prepare and file."**

124 **11. No court shall adopt any local rule, form, or practice requiring a standardized**  
125 **or default parenting plan for interim, temporary, or permanent orders or judgments.**  
126 **Notwithstanding any other provision to the contrary, a court may enter an interim order**  
127 **in a proceeding under this chapter, provided that the interim order shall not contain any**  
128 **provisions about child custody or a parenting schedule or plan without first providing the**  
129 **parties with notice and a hearing, unless the parties otherwise agree.**

130 [10.] **12. Unless a parent has been denied custody rights pursuant to this section or**  
131 **visitation rights under section 452.400, both parents shall have access to records and information**  
132 **pertaining to a minor child, including, but not limited to, medical, dental, and school records.**  
133 **If the parent without custody has been granted restricted or supervised visitation because the**  
134 **court has found that the parent with custody or any child has been the victim of domestic**  
135 **violence, as defined in section 455.010, by the parent without custody, the court may order that**  
136 **the reports and records made available pursuant to this subsection not include the address of the**  
137 **parent with custody or the child. Unless a parent has been denied custody rights pursuant to this**  
138 **section or visitation rights under section 452.400, any judgment of dissolution or other applicable**  
139 **court order shall specifically allow both parents access to such records and reports.**

140 [11.] **13.** Except as otherwise precluded by state or federal law, if any individual,  
141 professional, public or private institution or organization denies access or fails to provide or  
142 disclose any and all records and information, including, but not limited to, past and present  
143 dental, medical and school records pertaining to a minor child, to either parent upon the written  
144 request of such parent, the court shall, upon its finding that the individual, professional, public  
145 or private institution or organization denied such request without good cause, order that party to  
146 comply immediately with such request and to pay to the prevailing party all costs incurred,  
147 including, but not limited to, attorney's fees and court costs associated with obtaining the  
148 requested information.

149 [12.] **14.** An award of joint custody does not preclude an award of child support pursuant  
150 to section 452.340 and applicable supreme court rules. The court shall consider the factors  
151 contained in section 452.340 and applicable supreme court rules in determining an amount  
152 reasonable or necessary for the support of the child.

153 [13.] **15.** If the court finds that domestic violence or abuse, as defined in section 455.010  
154 has occurred, the court shall make specific findings of fact to show that the custody or visitation  
155 arrangement ordered by the court best protects the child and the parent or other family or  
156 household member who is the victim of domestic violence, as defined in section 455.010, and  
157 any other children for whom such parent has custodial or visitation rights from any further harm.

452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable  
2 visitation rights unless the court finds, after a hearing, that visitation would endanger the child's  
3 physical health or impair his or her emotional development. The court shall enter an order  
4 specifically detailing the visitation rights of the parent without physical custody rights to the  
5 child and any other children for whom such parent has custodial or visitation rights. In  
6 determining the granting of visitation rights, the court shall consider evidence of domestic  
7 violence. If the court finds that domestic violence has occurred, the court may find that granting  
8 visitation to the abusive party is in the best interests of the child.

9 (2) (a) The court shall not grant visitation to the parent not granted custody if such  
10 parent or any person residing with such parent has been found guilty of or pled guilty to any of  
11 the following offenses when a child was the victim:

12 a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,  
13 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,  
14 566.209, 566.212, or 566.215;

15 b. A violation of section 568.020;

16 c. A violation of subdivision (2) of subsection 1 of section 568.060;

17 d. A violation of section 568.065;

18 e. A violation of section 568.080;

19 f. A violation of section 568.090; or

20 g. A violation of section 568.175.

21 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed in  
22 paragraph (a) of this subdivision or for a violation of an offense committed in another state when  
23 a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri,  
24 the court may exercise its discretion in granting visitation to a parent not granted custody if such  
25 parent or any person residing with such parent has been found guilty of, or pled guilty to, any  
26 such offense.

27 (3) The court shall consider the parent's history of inflicting, or tendency to inflict,  
28 physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on  
29 other persons and shall grant visitation in a manner that best protects the child and the parent or  
30 other family or household member who is the victim of domestic violence, and any other  
31 children for whom the parent has custodial or visitation rights from any further harm.

32 (4) The court, if requested by a party, shall make specific findings of fact to show that  
33 the visitation arrangements made by the court best protect the child or the parent or other family  
34 or household member who is the victim of domestic violence, or any other child for whom the  
35 parent has custodial or visitation rights from any further harm.

36 2. (1) The court may modify an order granting or denying visitation rights whenever  
37 modification would serve the best interests of the child, but the court shall not restrict a parent's  
38 visitation rights unless it finds that the visitation would endanger the child's physical health or  
39 impair his or her emotional development.

40 (2) (a) In any proceeding modifying visitation rights, the court shall not grant  
41 unsupervised visitation to a parent if the parent or any person residing with such parent has been  
42 found guilty of or pled guilty to any of the following offenses when a child was the victim:

43 a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,  
44 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,  
45 566.209, 566.212, or 566.215;

46 b. A violation of section 568.020;

47 c. A violation of subdivision (2) of subsection 1 of section 568.060;

48 d. A violation of section 568.065;

49 e. A violation of section 568.080;

50 f. A violation of section 568.090; or

51 g. A violation of section 568.175.

52 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed in  
53 paragraph (a) of this subdivision or for a violation of an offense committed in another state when  
54 a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri,

55 the division may exercise its discretion regarding the placement of a child taken into the custody  
56 of the state in which a parent or any person residing in the home has been found guilty of, or pled  
57 guilty to, any such offense.

58 (3) When a court restricts a parent's visitation rights or when a court orders supervised  
59 visitation because of allegations of abuse or domestic violence, a showing of proof of treatment  
60 and rehabilitation shall be made to the court before unsupervised visitation may be ordered.  
61 "Supervised visitation", as used in this section, is visitation which takes place in the presence of  
62 a responsible adult appointed by the court for the protection of the child.

63 3. The court shall mandate compliance with its order by all parties to the action,  
64 including parents, children and third parties. In the event of noncompliance, the aggrieved  
65 person may file a verified motion for contempt. If custody, visitation or third-party custody is  
66 denied or interfered with by a parent or third party without good cause, the aggrieved person may  
67 file a family access motion with the court stating the specific facts which constitute a violation  
68 of the judgment of dissolution, legal separation or judgment of paternity. The state courts  
69 administrator shall develop a simple form for pro se motions to the aggrieved person, which shall  
70 be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk,  
71 shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks  
72 will provide such assistance shall be conspicuously posted in the clerk's offices. The location  
73 of the office where the family access motion may be filed shall be conspicuously posted in the  
74 court building. The performance of duties described in this section shall not constitute the  
75 practice of law as defined in section 484.010. Such form for pro se motions shall not require the  
76 assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard  
77 court costs otherwise due for instituting a civil action in the circuit court.

78 4. Within five court days after the filing of the family access motion pursuant to  
79 subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable  
80 state law, and applicable local or supreme court rules. A copy of the motion shall be personally  
81 served upon the respondent by personal process server as provided by law or by any sheriff.  
82 Such service shall be served at the earliest time and shall take priority over service in other civil  
83 actions, except those of an emergency nature or those filed pursuant to chapter 455. The motion  
84 shall contain the following statement in boldface type: "PURSUANT TO SECTION 452.400,  
85 RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN  
86 DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK  
87 MAY RESULT IN THE FOLLOWING:

88 (1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION  
89 OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED  
90 PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;



91 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE  
92 VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A  
93 CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

94 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST  
95 THE VIOLATOR;

96 (4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE  
97 FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

98 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO  
99 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE  
100 AGGRIEVED PARTY AND THE CHILD; AND

101 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE  
102 EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY  
103 INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF  
104 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

105 5. If an alternative dispute resolution program is available pursuant to section 452.372,  
106 the clerk shall also provide information to all parties on the availability of any such services, and  
107 within fourteen days of the date of service, the court may schedule alternative dispute resolution.

108 6. Upon a finding by the court pursuant to a motion for a family access order or a motion  
109 for contempt that its order for custody, visitation or third-party custody has not been complied  
110 with, without good cause, the court shall order a remedy, which may include, but not be limited  
111 to:

112 (1) A compensatory period of visitation, custody or third-party custody at a time  
113 convenient for the aggrieved party not less than the period of time denied;

114 (2) Participation by the violator in counseling to educate the violator about the  
115 importance of providing the child with a continuing and meaningful relationship with both  
116 parents;

117 (3) Assessment of a fine of up to five hundred dollars against the violator payable to the  
118 aggrieved party;

119 (4) Requiring the violator to post bond or security to ensure future compliance with the  
120 court's access orders; and

121 (5) Ordering the violator to pay the cost of counseling to reestablish the parent-child  
122 relationship between the aggrieved party and the child.

123 7. **The court shall consider, in a proceeding to enforce or modify a permanent**  
124 **custody or visitation order or judgment, a party's violation, without good cause, of a**  
125 **provision of the parenting plan, for the purpose of determining that party's ability and**  
126 **willingness to allow the child frequent and meaningful contact with the other party.**

127           **8.** The reasonable expenses incurred as a result of denial or interference with custody or  
128 visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody  
129 or third-party custody, shall be assessed, if requested and for good cause, against the parent or  
130 party who unreasonably denies or interferes with visitation, custody or third-party custody. In  
131 addition, the court may utilize any and all powers relating to contempt conferred on it by law or  
132 rule of the Missouri supreme court.

133           [8.] **9.** Final disposition of a motion for a family access order filed pursuant to this  
134 section shall take place not more than sixty days after the service of such motion, unless waived  
135 by the parties or determined to be in the best interest of the child. Final disposition shall not  
136 include appellate review.

137           [9.] **10.** Motions filed pursuant to this section shall not be deemed an independent civil  
138 action from the original action pursuant to which the judgment or order sought to be enforced  
139 was entered.

          452.556. 1. The state courts administrator shall create a handbook or be responsible for  
2 the approval of a handbook outlining the following:

3           (1) **Guidelines as to what is included in a parenting plan in order to maximize to the**  
4 **highest degree the amount of time the child may spend with each parent;**

5           (2) The benefits of the parties agreeing to a parenting plan which outlines education,  
6 custody and cooperation between parents;

7           (3) The benefits of alternative dispute resolution;

8           (4) The pro se family access motion for enforcement of custody or temporary physical  
9 custody;

10          (5) The underlying assumptions for supreme court rules relating to child support; and

11          (6) A party's duties and responsibilities pursuant to section 452.377, including the  
12 possible consequences of not complying with section 452.377.

13

14 The handbooks shall be distributed to each court and shall be available in an alternative format,  
15 including Braille, large print, or electronic or audio format upon request by a person with a  
16 disability, as defined by the federal Americans with Disabilities Act. **The handbook shall be**  
17 **made readily available and easily accessible online and upon request by a party.**

18

19          2. [Each court shall provide a copy of the handbook developed pursuant to subsection  
20 1 of this section to each party in a dissolution or legal separation action filed pursuant to section  
21 452.310, or any proceeding in modification thereof, where minor children are involved, or may]  
22 **In a dissolution or legal separation action filed pursuant to section 452.310, or any**  
23 **proceeding in modification thereof, where minor children are involved, petitioner's counsel**  
**shall provide the petitioner with a copy of the handbook developed pursuant to subsection 1**

24 **of this section** at the time the petition is filed and [direct that] **provide** a copy of the handbook  
25 **to** be served along with the petition and summons upon the respondent. **If the petitioner is**  
26 **unrepresented by counsel at the time the petition is filed, the court shall provide the**  
27 **petitioner with a copy of the handbook and direct that a copy of the handbook be served**  
28 **along with the petition and summons upon the respondent.**

29 3. The court shall make the handbook available to interested state agencies and members  
30 of the public.

454.849. The repeal of sections 454.850 to 454.999 shall become effective upon the  
2 [United States filing its instrument of ratification of The Hague Convention on the International  
3 Recovery of Child Support and Other Forms of Family Maintenance, adopted at The Hague  
4 Conference on Private International Law on November 23, 2007] **effective date of this act.**

454.1728. Sections 454.1500 to 454.1728 shall become effective upon the [United States  
2 filing its instrument of ratification of The Hague Convention on the International Recovery of  
3 Child Support and Other Forms of Family Maintenance, adopted at The Hague Conference on  
4 Private International Law on November 23, 2007] **effective date of this act.**

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