

FIRST REGULAR SESSION

# HOUSE BILL NO. 1253

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE AUNE.

1394H.02I

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 452.305 and 452.310, RSMo, and to enact in lieu thereof two new sections relating to a judgment of dissolution of marriage or legal separation.

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

Section A. Sections 452.305 and 452.310, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 452.305 and 452.310, to read as follows:

452.305. 1. The court shall enter a judgment of dissolution of marriage if:

2 (1) The court finds that one of the parties has been a resident of this state, or is a  
3 member of the armed services who has been stationed in this state, for ninety days  
4 immediately preceding the commencement of the proceeding and that thirty days have  
5 elapsed since the filing of the petition; and

6 (2) The court finds that there remains no reasonable likelihood that the marriage can  
7 be preserved and that therefore the marriage is irretrievably broken; and

8 (3) To the extent it has jurisdiction, the court has considered and made provision for  
9 child custody, the support of each child, the maintenance of either spouse and the disposition  
10 of property.

11 2. The court shall enter a judgment of legal separation if:

12 (1) The court finds that one of the parties has been a resident of this state, or is a  
13 member of the armed services who has been stationed in this state, for ninety days  
14 immediately preceding the commencement of the proceeding and that thirty days have  
15 elapsed since the filing of the petition; and

16 (2) The court finds that there remains a reasonable likelihood that the marriage can be  
17 preserved and that therefore the marriage is not irretrievably broken; and

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.

18 (3) To the extent it has jurisdiction, the court has considered and made provision for  
19 the custody and the support of each child, the maintenance of either spouse and the  
20 disposition of property.

21 **3. Pregnancy status shall not prevent the court from entering a judgment of**  
22 **dissolution of marriage or legal separation.**

23 **4.** Any judgment of dissolution of marriage or legal separation shall include the last  
24 four digits of the Social Security numbers of the parties. The full Social Security number of  
25 each party and each child shall be retained in the manner required under section 509.520.

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  
3 verified. The petition in a proceeding for dissolution of marriage shall allege that the  
4 marriage is irretrievably broken and that therefore there remains no reasonable likelihood that  
5 the marriage can be preserved. The petition in a proceeding for legal separation shall allege  
6 that the marriage is not irretrievably broken and that therefore there remains a reasonable  
7 likelihood that the marriage can be preserved.

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  
11 each 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  
15 has 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; **however, pregnancy status shall not prevent the**  
18 **court from entering a judgment of dissolution of marriage or legal separation;**

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

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

23 (8) The relief sought.

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

29 child has primarily resided for the sixty days immediately preceding the filing of a petition for  
30 dissolution of marriage or legal separation.

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

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

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

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

42 (3) The relief sought.

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

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

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

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

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

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

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

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

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

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

64 (g) Appropriate times for telephone access;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94 (e) Child care expenses, if any;

95 (f) Transportation expenses, if any.

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

101 entered by the court shall not create a preference for the court in its adjudication of final  
102 custody, child support or visitation.

103           10. The Missouri supreme court shall have guidelines for a parenting plan which may  
104 be used by the parties pursuant to this section in any dissolution of marriage, legal separation  
105 or modification proceeding involving issues of custody and visitation relating to the child.  
106 Parenting plan guidelines shall be made available on the office of state courts administrator's  
107 website.

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

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