

FIRST REGULAR SESSION

HOUSE BILL NO. 1376

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MERIDETH.

1689H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.854, 454.435, 478.1000, 483.163, 568.040, and 650.055, RSMo, and to enact in lieu thereof three new sections relating to criminal nonsupport, with penalty provisions.

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

Section A. Sections 210.854, 454.435, 478.1000, 483.163, 568.040, and 650.055, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.854, 454.435, and 650.055, to read as follows:

210.854. 1. In the event of the entry of a judgment or judgments of paternity and support, whether entered in one judgment or separately, a person against whom such a judgment or judgments have been entered may file a petition requesting a circuit court with jurisdiction over the subject child or children to set aside said judgment or judgments in the interests of justice and upon the grounds set forth in this section. Such a petition may be filed at any time prior to December 31, 2011. After that date, the petition shall be filed within two years of the entry of the original judgment of paternity and support or within two years of entry of the later judgment in the case of separate judgments of paternity and support and shall be filed in the county which entered the judgment or judgments of paternity and support. Any such petition shall be served upon the biological mother and any other legal guardian or custodian in the same manner provided for service of process in the rules of civil procedure. The child or children shall be made a party and shall have a guardian ad litem appointed for the child or children before any further proceedings are had. If the child or children are recipients of IV-D services as defined in subdivision (8) of section 454.460, the family support division shall also be made a party and shall be duly served.

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.

16 2. The petition shall include an affidavit executed by the petitioner alleging that evidence
17 exists which was not considered before entry of judgment and either:

18 (1) An allegation that genetic testing was conducted within ninety days prior to the filing
19 of such petition using DNA methodology to determine the probability or improbability of
20 paternity, and performed by an expert as defined in section 210.834. The affidavit shall also
21 allege that the test results, which are attached thereto, indicate that a person subject to the child
22 support payment order has been excluded as the child's father; or

23 (2) A request to the court for an order of genetic paternity testing using DNA
24 methodology.

25 3. The court, after a hearing wherein all interested parties have been given an opportunity
26 to present evidence and be heard, and upon a finding of probable cause to believe said testing
27 may result in a determination of nonpaternity, shall order the relevant parties to submit to genetic
28 paternity testing. The genetic paternity testing costs shall be paid by the petitioner.

29 4. Upon a finding that the genetic test referred to herein was properly conducted,
30 accurate, and indicates that the person subject to the child support payment order has been
31 excluded as the child's father, the court shall, unless it makes written findings of fact and
32 conclusions of law that it is in the best interest of the parties not to do so:

33 (1) Grant relief on the petition and enter judgment setting aside the previous judgment
34 or judgments of paternity and support, or acknowledgment of paternity under section 210.823
35 only as to the child or children found not to be the biological child or children of the petitioner;

36 (2) Extinguish any existing child support arrearage only as to the child or children found
37 not to be the biological child or children of the petitioner; and

38 (3) Order the department of health and senior services to modify the child's birth
39 certificate accordingly.

40 5. The provisions of this section shall not apply to grant relief to the parent of any
41 adopted child.

42 6. A finding under subsection 4 of this section shall constitute a material mistake of fact
43 under section 210.823.

44 7. The provisions of this section shall not be construed to create a cause of action to
45 recover child support or state debt, under subdivision (2) of subsection 1 of section 454.465 and
46 subsection 10 of section 452.340, that was previously paid pursuant to the order. The petitioner
47 shall have no right for reimbursement for any moneys previously paid pursuant to said order.

48 8. Any petitioner who has pled guilty to or been found guilty of an offense for criminal
49 nonsupport under section 568.040 **as it existed prior to August 28, 2021**, as to a child or
50 children who have been found not to be the biological child or children of the petitioner, may
51 apply to the court in which the petitioner pled guilty or was sentenced for an order to expunge

52 from all official records all recordations of his arrest, plea, trial, or conviction. If the court
53 determines, after hearing, that the petitioner has had a judgment or judgments of paternity and
54 support set aside under this section, the court shall enter an order of expungement. Upon
55 granting of the order of expungement under this subsection, the records and files maintained in
56 any administrative or court proceeding in an associate or circuit division of the circuit court
57 under this section shall be confidential and only available to the parties or by order of the court
58 for good cause shown. The effect of such order shall be to restore such person to the status he
59 or she occupied prior to such arrest, plea, or conviction and as if such event had never taken
60 place. No person as to whom such order has been entered shall be held thereafter under any
61 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his
62 failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response
63 to any inquiry made of him for any purpose whatsoever and no such inquiry shall be made for
64 information relating to an expungement under this section.

65 9. Beginning in 2010, the family support division shall track and report to the general
66 assembly the number of cases known to the division in which a court, within the calendar year,
67 set aside a previous judgment or judgments of paternity and support under subsection 4 of this
68 section. The family support division shall submit the report annually by December thirty-first.

454.435. 1. Each prosecuting attorney may enter into a cooperative agreement or may
2 enter into a multiple county agreement to litigate ~~or prosecute~~ any action necessary to secure
3 support for any person referred to such office by the family support division including, but not
4 limited to, reciprocal actions under this chapter, actions to establish, modify and enforce support
5 obligations, actions to enforce medical support obligations ordered in conjunction with a child
6 support obligation, actions to obtain reimbursement for the cost of medical care provided by the
7 state for which an obligor is liable under subsection 9 of section 208.215, and actions to establish
8 the paternity of a child for whom support is sought. In all cases where a prosecuting attorney
9 seeks the establishment or modification of a support obligation, the prosecuting attorney shall,
10 in addition to periodic monetary support, seek and enforce orders from the court directing the
11 obligated parent to maintain medical insurance on behalf of the child for whom support is
12 sought, which insurance shall, in the opinion of the court, be sufficient to provide adequate
13 medical coverage; or to otherwise provide for such child's necessary medical expenses.

14 2. In all cases where a prosecuting attorney has entered into a cooperative agreement to
15 litigate ~~or prosecute~~ an action necessary to secure child support, and ~~[an information is not filed~~
16 ~~or]~~ a civil action is **not** commenced within sixty days of the receipt of the referral from the
17 division, the division may demand return of the referral and the case filed and the prosecuting
18 attorney shall return the referral and the case file. The division may then use any other attorney

19 which it employs or with whom it has a cooperative agreement to establish or enforce the support
20 obligation.

21 3. As used in this section, the term "prosecuting attorney" means, with reference to any
22 city not within a county, the circuit attorney.

23 4. Prosecuting attorneys are hereby authorized to initiate judicial or administrative
24 modification proceedings on IV-D cases at the request of the division.

650.055. 1. Every individual who:

2 (1) Is found guilty of a felony or any offense under chapter 566; or

3 (2) Is seventeen years of age or older and arrested for burglary in the first degree under
4 section 569.160, or burglary in the second degree under section 569.170, or a felony offense
5 under chapter 565, 566, 567, 568, or 573; or

6 (3) Has been determined to be a sexually violent predator pursuant to sections 632.480
7 to 632.513; or

8 (4) Is an individual required to register as a sexual offender under sections 589.400 to
9 589.425;

10

11 shall have a fingerprint and blood or scientifically accepted biological sample collected for
12 purposes of DNA profiling analysis.

13 2. Any individual subject to DNA collection and profiling analysis under this section
14 shall provide a DNA sample:

15 (1) Upon booking at a county jail or detention facility; or

16 (2) Upon entering or before release from the department of corrections reception and
17 diagnostic centers; or

18 (3) Upon entering or before release from a county jail or detention facility, state
19 correctional facility, or any other detention facility or institution, whether operated by a private,
20 local, or state agency, or any mental health facility if committed as a sexually violent predator
21 pursuant to sections 632.480 to 632.513; or

22 (4) When the state accepts a person from another state under any interstate compact, or
23 under any other reciprocal agreement with any county, state, or federal agency, or any other
24 provision of law, whether or not the person is confined or released, the acceptance is conditional
25 on the person providing a DNA sample if the person was found guilty of a felony offense in any
26 other jurisdiction; or

27 (5) If such individual is under the jurisdiction of the department of corrections. Such
28 jurisdiction includes persons currently incarcerated, persons on probation, as defined in section
29 217.650, and on parole, as also defined in section 217.650; or

30 (6) At the time of registering as a sex offender under sections 589.400 to 589.425.

31 3. The Missouri state highway patrol and department of corrections shall be responsible
32 for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to
33 this section shall be required to provide such sample, without the right of refusal, at a collection
34 site designated by the Missouri state highway patrol and the department of corrections.
35 Authorized personnel collecting or assisting in the collection of samples shall not be liable in any
36 civil or criminal action when the act is performed in a reasonable manner. Such force may be
37 used as necessary to the effectual carrying out and application of such processes and operations.
38 The enforcement of these provisions by the authorities in charge of state correctional institutions
39 and others having custody or jurisdiction over individuals included in subsection 1 of this section
40 which shall not be set aside or reversed is hereby made mandatory. The board of probation or
41 parole shall recommend that an individual on probation or parole who refuses to provide a DNA
42 sample have his or her probation or parole revoked. In the event that a person's DNA sample is
43 not adequate for any reason, the person shall provide another sample for analysis.

44 4. The procedure and rules for the collection, analysis, storage, expungement, use of
45 DNA database records and privacy concerns shall not conflict with procedures and rules
46 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
47 databank system.

48 5. Unauthorized use or dissemination of individually identifiable DNA information in
49 a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

50 6. Implementation of sections 650.050 to 650.100 shall be subject to future
51 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
52 Investigation's DNA databank system.

53 7. All DNA records and biological materials retained in the DNA profiling system are
54 considered closed records pursuant to chapter 610. All records containing any information held
55 or maintained by any person or by any agency, department, or political subdivision of the state
56 concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed,
57 except to:

58 (1) Peace officers, as defined in section 590.010, and other employees of law
59 enforcement agencies who need to obtain such records to perform their public duties;

60 (2) The attorney general or any assistant attorneys general acting on his or her behalf, as
61 defined in chapter 27;

62 (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, and their
63 employees who need to obtain such records to perform their public duties;

64 (4) The individual whose DNA sample has been collected, or his or her attorney; or

65 (5) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court
66 judges, and their employees who need to obtain such records to perform their public duties.

67 8. Any person who obtains records pursuant to the provisions of this section shall use
68 such records only for investigative and prosecutorial purposes, including but not limited to use
69 at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes,
70 including identification of human remains. Such records shall be considered strictly confidential
71 and shall only be released as authorized by this section.

72 9. (1) An individual may request expungement of his or her DNA sample and DNA
73 profile through the court issuing the reversal or dismissal, or through the court granting an
74 expungement of all official records under section 568.040 **as it existed prior to August 28,**
75 **2021.** A certified copy of the court order establishing that such conviction has been reversed,
76 guilty plea has been set aside, or expungement has been granted under section 568.040 **as it**
77 **existed prior to August 28, 2021,** shall be sent to the Missouri state highway patrol crime
78 laboratory. Upon receipt of the court order, the laboratory will determine that the requesting
79 individual has no other qualifying offense as a result of any separate plea or conviction and no
80 other qualifying arrest prior to expungement.

81 (2) A person whose DNA record or DNA profile has been included in the state DNA
82 database in accordance with this section and sections 650.050, 650.052, and 650.100 may request
83 expungement on the grounds that the conviction has been reversed, the guilty plea on which the
84 authority for including that person's DNA record or DNA profile was based has been set aside,
85 or an expungement of all official records has been granted by the court under section 568.040
86 **as it existed prior to August 28, 2021.**

87 (3) Upon receipt of a written request for expungement, a certified copy of the final court
88 order reversing the conviction, setting aside the plea, or granting an expungement of all official
89 records under section 568.040 **as it existed prior to August 28, 2021,** and any other information
90 necessary to ascertain the validity of the request, the Missouri state highway patrol crime
91 laboratory shall expunge all DNA records and identifiable information in the state DNA database
92 pertaining to the person and destroy the DNA sample of the person, unless the Missouri state
93 highway patrol determines that the person is otherwise obligated to submit a DNA sample.
94 Within thirty days after the receipt of the court order, the Missouri state highway patrol shall
95 notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis
96 for its determination that the person is otherwise obligated to submit a DNA sample.

97 (4) The Missouri state highway patrol is not required to destroy any item of physical
98 evidence obtained from a DNA sample if evidence relating to another person would thereby be
99 destroyed.

100 (5) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from
101 the database shall not be excluded or suppressed from evidence, nor shall any conviction be

102 invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging
103 DNA records.

104 10. When a DNA sample is taken from an individual pursuant to subdivision (2) of
105 subsection 1 of this section and the prosecutor declines prosecution and notifies the arresting
106 agency of that decision, the arresting agency shall notify the Missouri state highway patrol crime
107 laboratory within ninety days of receiving such notification. Within thirty days of being notified
108 by the arresting agency that the prosecutor has declined prosecution, the Missouri state highway
109 patrol crime laboratory shall determine whether the individual has any other qualifying offenses
110 or arrests that would require a DNA sample to be taken and retained. If the individual has no
111 other qualifying offenses or arrests, the crime laboratory shall expunge all DNA records in the
112 database taken at the arrest for which the prosecution was declined pertaining to the person and
113 destroy the DNA sample of such person.

114 11. When a DNA sample is taken of an arrestee for any offense listed under subsection
115 1 of this section and charges are filed:

116 (1) If the charges are later withdrawn, the prosecutor shall notify the state highway patrol
117 crime laboratory that such charges have been withdrawn;

118 (2) If the case is dismissed, the court shall notify the state highway patrol crime
119 laboratory of such dismissal;

120 (3) If the court finds at the preliminary hearing that there is no probable cause that the
121 defendant committed the offense, the court shall notify the state highway patrol crime laboratory
122 of such finding;

123 (4) If the defendant is found not guilty, the court shall notify the state highway patrol
124 crime laboratory of such verdict.

125

126 If the state highway patrol crime laboratory receives notice under this subsection, such crime
127 laboratory shall determine, within thirty days, whether the individual has any other qualifying
128 offenses or arrests that would require a DNA sample to be taken. If the individual has no other
129 qualifying arrests or offenses, the crime laboratory shall expunge all DNA records in the database
130 pertaining to such person and destroy the person's DNA sample.

2 ~~[478.1000. 1. Criminal nonsupport courts may be established by any~~
3 ~~circuit court to provide an alternative for the criminal justice system to dispose~~
4 ~~of cases which stem from criminal nonsupport. A criminal nonsupport court~~
5 ~~shall combine judicial supervision, substance abuse treatment, education~~
6 ~~including general education development certificate (GED) programs, vocational~~
7 ~~or employment training, work programs, and support payment plans for criminal~~
8 ~~nonsupport court participants. Except for good cause found by the court, a~~
9 ~~criminal nonsupport court making a referral for education, substance abuse~~
 ~~treatment, vocational or employment training, or work programs, when such~~

10 ~~program will receive state or federal funds in connection with such referral, shall~~
11 ~~refer the person only to a program which is certified by a department of the state~~
12 ~~of Missouri, unless no appropriate certified program is located within the same~~
13 ~~county as the criminal nonsupport court. Upon successful completion of the~~
14 ~~education, substance abuse treatment, vocational or employment training~~
15 ~~program, work program, or support payment plan, the defendant becoming~~
16 ~~gainfully employed, or the defendant commencing payment of current and~~
17 ~~accrued support, the charges, petition, or penalty against a criminal nonsupport~~
18 ~~court participant may be dismissed, reduced, or modified. Any fees received by~~
19 ~~a court from a defendant as payment for education, substance abuse treatment, or~~
20 ~~training programs shall not be considered court costs, charges, or fines.~~

21 ~~2. Each circuit court shall establish conditions for referral of proceedings~~
22 ~~to the criminal nonsupport court. The defendant in any criminal proceeding~~
23 ~~accepted by a criminal nonsupport court for disposition shall be a nonviolent~~
24 ~~person, as determined by the prosecuting attorney, and shall be subject to the~~
25 ~~conditions set forth in subsection 6 of section 568.040. Any proceeding accepted~~
26 ~~by the criminal nonsupport court program for disposition shall be upon agreement~~
27 ~~of the parties.~~

28 ~~3. Any report made by the staff of the program shall not be admissible as~~
29 ~~evidence against the participant in the underlying criminal nonsupport case.~~
30 ~~Notwithstanding the foregoing, termination from the criminal nonsupport court~~
31 ~~program and the reasons for termination may be considered in sentencing or~~
32 ~~disposition.~~

33 ~~4. Notwithstanding any other provision of law, criminal nonsupport court~~
34 ~~staff shall be provided with access to all records of any state or local government~~
35 ~~agency relevant to the supervision of any program participant. Upon general~~
36 ~~request, employees of all such agencies shall fully inform criminal nonsupport~~
37 ~~court staff of all matters relevant to the supervision of the participant. All such~~
38 ~~records and reports and the contents thereof shall be treated as closed records and~~
39 ~~shall not be disclosed to any person outside of the criminal nonsupport court, and~~
40 ~~shall be maintained by the court in a confidential file not available to the public.~~

41 ~~5. In order to coordinate the allocation of resources available to criminal~~
42 ~~nonsupport courts throughout the state, there is hereby established a "Criminal~~
43 ~~Nonsupport Courts Coordinating Commission" in the judicial department. The~~
44 ~~criminal nonsupport courts coordinating commission shall consist of one member~~
45 ~~selected by the director of the department of corrections; one member selected by~~
46 ~~the director of the department of social services; one member selected by the~~
47 ~~director of the department of education; one member selected by the director of~~
48 ~~the department of public safety; one member selected by the state courts~~
49 ~~administrator; one member selected by the director of the department of labor and~~
50 ~~industrial relations; three members selected by the Missouri supreme court, one~~
51 ~~being a criminal defense attorney; and one member who is a prosecuting attorney~~
52 ~~selected by the office of prosecution services. The Missouri supreme court shall~~

53 designate the chair of the commission. The commission shall periodically meet
 54 at the call of the chair; evaluate resources available for assessment and training
 55 of persons assigned to criminal nonsupport courts or for operation of criminal
 56 nonsupport courts; secure grants, funds, and other property and services
 57 necessary or desirable to facilitate criminal nonsupport court operation; and
 58 allocate such resources among the various criminal nonsupport courts operating
 59 within the state.

60 ~~6. There is hereby established in the state treasury a "Criminal~~
 61 ~~Nonsupport Court Resources Fund", which shall be administered by the criminal~~
 62 ~~nonsupport courts coordinating commission. Funds available for allocation or~~
 63 ~~distribution by the criminal nonsupport courts coordinating commission may be~~
 64 ~~deposited into the criminal nonsupport court resources fund. The state treasurer~~
 65 ~~shall be the custodian of the fund and may approve disbursements from the fund~~
 66 ~~in accordance with sections 30.170 and 30.180. Notwithstanding the provisions~~
 67 ~~of section 33.080, moneys in the criminal nonsupport court resources fund shall~~
 68 ~~not be transferred or placed to the credit of the general revenue fund of the state~~
 69 ~~at the end of each biennium, but shall remain deposited to the credit of the~~
 70 ~~criminal nonsupport court resources fund.]~~

71

[483.163. 1. Each circuit clerk, except the circuit clerk in any city not
 2 within a county, shall cooperate with the prosecuting attorney and family support
 3 division in the investigation and documentation of possible criminal nonsupport
 4 pursuant to section 568.040:

5 ~~2. Other provisions of law to the contrary notwithstanding, for the~~
 6 ~~performance of the duties prescribed in subsection 1 of this section, each circuit~~
 7 ~~clerk, except the circuit clerk in any city not within a county, in addition to any~~
 8 ~~other compensation provided by law, shall receive five thousand dollars per year~~
 9 ~~beginning January 1, 1997. Such compensation shall be payable in equal~~
 10 ~~installments in the same manner and at the same time as other compensation is~~
 11 ~~paid to the circuit clerk.~~

12 ~~3. For every year beginning July 1, 1998, the amount of increased~~
 13 ~~compensation established in subsection 2 of this section shall be adjusted by any~~
 14 ~~salary adjustment authorized pursuant to section 476.405.]~~

15

[568.040. 1. A person commits the offense of nonsupport if he or she
 2 knowingly fails to provide adequate support for his or her spouse; a parent
 3 commits the offense of nonsupport if such parent knowingly fails to provide
 4 adequate support which such parent is legally obligated to provide for his or her
 5 child or stepchild who is not otherwise emancipated by operation of law:

6 ~~2. For purposes of this section:~~

7 ~~(1) "Arrearage":~~

8 ~~(a) The amount of moneys created by a failure to provide support to a~~
 9 ~~child under an administrative or judicial support order;~~

10 ~~(b) Support to an estranged or former spouse if the judgment or order~~
11 ~~requiring payment of spousal support also requires payment of child support and~~
12 ~~such estranged or former spouse is the custodial parent, or~~

13 ~~(c) Both paragraphs (a) and (b) of this subdivision.~~

14
15 ~~The arrearage shall reflect any retroactive support ordered under a modification~~
16 ~~and any judgments entered by a court of competent jurisdiction or any authorized~~
17 ~~agency and any satisfactions of judgment filed by the custodial parent;~~

18 ~~(2) "Child" means any biological or adoptive child, or any child whose~~
19 ~~paternity has been established under chapter 454, or chapter 210, or any child~~
20 ~~whose relationship to the defendant has been determined, by a court of law in a~~
21 ~~proceeding for dissolution or legal separation, to be that of child to parent;~~

22 ~~(3) "Good cause" means any substantial reason why the defendant is~~
23 ~~unable to provide adequate support. Good cause does not exist if the defendant~~
24 ~~purposely maintains his inability to support;~~

25 ~~(4) "Support" means food, clothing, lodging, and medical or surgical~~
26 ~~attention;~~

27 ~~(5) It shall not constitute a failure to provide medical and surgical~~
28 ~~attention, if nonmedical remedial treatment recognized and permitted under the~~
29 ~~laws of this state is provided.~~

30 ~~3. Inability to provide support for good cause shall be an affirmative~~
31 ~~defense under this section. A defendant who raises such affirmative defense has~~
32 ~~the burden of proving the defense by a preponderance of the evidence.~~

33 ~~4. The defendant shall have the burden of injecting the issues raised by~~
34 ~~subdivision (5) of subsection 2 of this section.~~

35 ~~5. The offense of criminal nonsupport is a class A misdemeanor, unless~~
36 ~~the total arrearage is in excess of an aggregate of twelve monthly payments due~~
37 ~~under any order of support issued by any court of competent jurisdiction or any~~
38 ~~authorized administrative agency, in which case it is a class E felony.~~

39 ~~6. (1) If at any time an offender convicted of criminal nonsupport, or an~~
40 ~~offender who has plead guilty to a charge of criminal nonsupport, is placed on~~
41 ~~probation or parole, there may be ordered as a condition of probation or parole~~
42 ~~that the offender commence payment of current support as well as satisfy the~~
43 ~~arrears. Arrears may be satisfied first by making such lump sum payment~~
44 ~~as the offender is capable of paying, if any, as may be shown after examination~~
45 ~~of the offender's financial resources or assets, both real, personal, and mixed, and~~
46 ~~second by making periodic payments. Periodic payments toward satisfaction of~~
47 ~~arrears when added to current payments due shall be in such aggregate sums as~~
48 ~~is not greater than fifty percent of the offender's adjusted gross income after~~
49 ~~deduction of payroll taxes, medical insurance that also covers a dependent spouse~~
50 ~~or children, and any other court- or administrative-ordered support, only.~~

51 ~~(2) If the offender fails to pay the support and arrearages under the terms~~
52 ~~of his or her probation, the court may revoke probation or parole and then impose~~

53 ~~an appropriate sentence within the range for the class of offense that the offender~~
54 ~~was convicted of as provided by law, unless the offender proves good cause for~~
55 ~~the failure to pay as required under subsection 3 of this section.~~

56 ~~(3) (a) An individual whose children were the subject of a child support~~
57 ~~order and the obligation of such individual to make child support payments has~~
58 ~~been terminated under subsection 3 of section 452.340, who has been found~~
59 ~~guilty of a felony offense for criminal nonsupport under this section, and who has~~
60 ~~successfully completed probation after a plea of guilty or conviction may petition~~
61 ~~the court for expungement of all recordings of his or her arrest, plea, trial, or~~
62 ~~conviction. If the court determines after hearing that such person:~~

63 ~~a. Has not been convicted of any subsequent offense, unless such offense~~
64 ~~is eligible for expungement under a different section;~~

65 ~~b. Does not have any other felony pleas of guilt, findings of guilt, or~~
66 ~~convictions, unless such felony pleas of guilt, findings of guilt, or convictions are~~
67 ~~eligible for expungement under a different section;~~

68 ~~c. Has paid off all arrearages; and~~

69 ~~d. Has no administrative child support actions pending at the time of the~~
70 ~~hearing on the application for expungement with respect to all children subject~~
71 ~~to orders of payment of child support~~

72
73 ~~the court shall enter an order of expungement. In addition, the court may~~
74 ~~consider successful completion of a criminal nonsupport court program under~~
75 ~~section 478.1000, or any other circumstances or factors deemed relevant by the~~
76 ~~court.~~

77 ~~(b) Upon granting the order of expungement, the records and files~~
78 ~~maintained in any court proceeding in an associate or a circuit division of the~~
79 ~~circuit court under this section shall be confidential and only available to the~~
80 ~~parties or by order of the court for good cause shown.~~

81 ~~(c) The effect of such order shall be to restore such person to the status~~
82 ~~he or she occupied prior to such arrest, plea, or conviction, and as if such event~~
83 ~~had never taken place. No person for whom such order has been entered shall be~~
84 ~~held thereafter under any provision of any law to be guilty of perjury or otherwise~~
85 ~~giving a false statement by reason of his or her failure to recite or acknowledge~~
86 ~~such arrest, plea, trial, conviction, or expungement in response to any inquiry~~
87 ~~made of him or her for any purpose whatsoever and no such inquiry shall be~~
88 ~~made for information relating to an expungement under this section.~~

89 ~~(d) A person shall only be entitled to one expungement under this~~
90 ~~section. Nothing in this section shall prevent the director of the department of~~
91 ~~social services from maintaining such records as to ensure that an individual~~
92 ~~receives only one expungement under this section for the purpose of informing~~
93 ~~the proper authorities of the contents of any record maintained under this section.~~

94 ~~7. During any period that a nonviolent offender is incarcerated for~~
95 ~~criminal nonsupport, if the offender is ready, willing, and able to be gainfully~~

96 employed during said period of incarceration, the offender, if he or she meets the
97 criteria established by the department of corrections, may be placed on work
98 release to allow the offender to satisfy his or her obligation to pay support.
99 Arrearages shall be satisfied as outlined in the collection agreement.

100 ~~8. Beginning August 28, 2009, every nonviolent first- and second-time~~
101 ~~offender then incarcerated for criminal nonsupport, who has not been previously~~
102 ~~placed on probation or parole for conviction of criminal nonsupport, may be~~
103 ~~considered for parole, under the conditions set forth in subsection 6 of this~~
104 ~~section, or work release, under the conditions set forth in subsection 7 of this~~
105 ~~section.~~

106 ~~9. Beginning January 1, 1991, every prosecuting attorney in any county~~
107 ~~which has entered into a cooperative agreement with the family support division~~
108 ~~within the department of social services regarding child support enforcement~~
109 ~~services shall report to the division on a quarterly basis the number of charges~~
110 ~~filed and the number of convictions obtained under this section by the~~
111 ~~prosecuting attorney's office on all IV-D cases. The division shall consolidate the~~
112 ~~reported information into a statewide report by county and make the report~~
113 ~~available to the general public.~~

114 ~~10. Persons accused of committing the offense of nonsupport of the child~~
115 ~~shall be prosecuted:~~

116 ~~(1) In any county in which the child resided during the period of time for~~
117 ~~which the defendant is charged; or~~

118 ~~(2) In any county in which the defendant resided during the period of~~
119 ~~time for which the defendant is charged.]~~

✓