

SECOND REGULAR SESSION

# HOUSE BILL NO. 1644

102ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE TERRY.

3531H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 452.340, 452.375, and 452.400, RSMo, and to enact in lieu thereof three new sections relating to the custody and support of children, with penalty provisions.

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

Section A. Sections 452.340, 452.375, and 452.400, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 452.340, 452.375, and 452.400,  
3 to read as follows:

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

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

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

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 obligation of the parent ordered to make support payments shall abate, in  
17 whole or in part, for such periods of time in excess of thirty consecutive days that the other  
18 parent has voluntarily relinquished physical custody of a child to the parent ordered to pay  
19 child support, notwithstanding any periods of visitation or temporary physical and legal or  
20 physical or legal custody pursuant to a judgment of dissolution or legal separation or any  
21 modification thereof. In a IV-D case, the family support division may determine the amount  
22 of the abatement pursuant to this subsection for any child support order and shall record the  
23 amount of abatement in the automated child support system record established pursuant to  
24 chapter 454. If the case is not a IV-D case and upon court order, the circuit clerk shall record  
25 the amount of abatement in the automated child support system record established in chapter  
26 454.

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

30           (1) Dies;

31           (2) Marries;

32           (3) Enters active duty in the military;

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

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

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

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

43           5. If when a child reaches age eighteen, the child is enrolled in and attending a  
44 secondary school program of instruction, the parental support obligation shall continue, if the  
45 child continues to attend and progresses toward completion of said program, until the child  
46 completes such program or reaches age ~~twenty-one~~ **twenty-two**, whichever first occurs. If  
47 the child is enrolled in an institution of vocational or higher education not later than October  
48 first following graduation from a secondary school or completion of a graduation equivalence  
49 degree program and so long as the child enrolls for and completes at least twelve hours of  
50 credit each semester, not including the summer semester, at an institution of vocational or  
51 higher education and achieves grades sufficient to reenroll at such institution, the parental  
52 support obligation shall continue until the child completes his or her education, or until the

53 child reaches the age of twenty-one, whichever first occurs. To remain eligible for such  
54 continued parental support, at the beginning of each semester the child shall submit to each  
55 parent a transcript or similar official document provided by the institution of vocational or  
56 higher education which includes the courses the child is enrolled in and has completed for  
57 each term, the grades and credits received for each such course, and an official document  
58 from the institution listing the courses which the child is enrolled in for the upcoming term  
59 and the number of credits for each such course. When enrolled in at least twelve credit hours,  
60 if the child receives failing grades in half or more of his or her course load in any one  
61 semester, payment of child support may be terminated and shall not be eligible for  
62 reinstatement. Upon request for notification of the child's grades by the noncustodial parent,  
63 the child shall produce the required documents to the noncustodial parent within thirty days of  
64 receipt of grades from the education institution **so long as the noncustodial parent**  
65 **requesting the documents maintains meaningful contact with the child.** If the child fails  
66 to produce the required documents **and the noncustodial parent requesting the documents**  
67 **maintains meaningful contact with the child,** payment of child support may terminate  
68 without the accrual of any child support arrearage and shall not be eligible for reinstatement.  
69 If the circumstances of the child manifestly dictate, the court may waive the October first  
70 deadline for enrollment required by this subsection. If the child is enrolled in such an  
71 institution, the child or parent obligated to pay support may petition the court to amend the  
72 order to direct the obligated parent to make the payments directly to the child. As used in this  
73 section, an "institution of vocational education" means any postsecondary training or  
74 schooling for which the student is assessed a fee and attends classes regularly. "Higher  
75 education" means any community college, college, or university at which the child attends  
76 classes regularly. A child who has been diagnosed with a developmental disability, as defined  
77 in section 630.005, or whose physical disability or diagnosed health problem limits the child's  
78 ability to carry the number of credit hours prescribed in this subsection, shall remain eligible  
79 for child support so long as such child is enrolled in and attending an institution of vocational  
80 or higher education, and the child continues to meet the other requirements of this subsection.  
81 A child who is employed at least fifteen hours per week during the semester may take as few  
82 as nine credit hours per semester and remain eligible for child support so long as all other  
83 requirements of this subsection are complied with.

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

88         7. The general assembly finds and declares that it is the public policy of this state that  
89 frequent, continuing and meaningful contact with both parents after the parents have

90 separated or dissolved their marriage is in the best interest of the child except for cases where  
91 the court specifically finds that such contact is not in the best interest of the child. In order to  
92 effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and  
93 child support orders in the same manner. A court with jurisdiction may abate, in whole or in  
94 part, any past or future obligation of support and may transfer the physical and legal or  
95 physical or legal custody of one or more children if it finds that a parent has, without good  
96 cause, failed to provide visitation or physical and legal or physical or legal custody to the  
97 other parent pursuant to the terms of a judgment of dissolution, legal separation or  
98 modifications thereof. The court shall also award, if requested and for good cause shown,  
99 reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

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

115         9. There shall be a rebuttable presumption, in any judicial or administrative  
116 proceeding for the award of child support, that the amount of the award which would result  
117 from the application of the guidelines established pursuant to subsection 8 of this section is  
118 the correct amount of child support to be awarded. A written finding or specific finding on  
119 the record in a judicial or administrative proceeding that the application of the guidelines  
120 would be unjust or inappropriate in a particular case, after considering all relevant factors,  
121 including the factors set out in subsection 1 of this section, shall be required and shall be  
122 sufficient to rebut the presumption in the case. The written finding or specific finding on the  
123 record shall detail the specific relevant factors that required a deviation from the application  
124 of the guidelines.

125         10. Pursuant to this or any other chapter, when a court determines the amount owed  
126 by a parent for support provided to a child by another person, other than a parent, prior to the

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

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

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

149         (1) Provided that the state case registry or child support order contains the child's date  
150 of birth, the obligation shall be deemed terminated without further judicial or administrative  
151 process when the child reaches age twenty-one if the child support order does not specifically  
152 require payment of child support beyond age twenty-one for reasons provided by subsection 4  
153 of this section;

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

160         (3) The obligation shall be deemed terminated without further judicial or  
161 administrative process when the parent paying child support files a sworn statement or  
162 affidavit with the court which entered the order establishing the child support obligation, or  
163 the family support division for an order entered under section 454.470, stating that the child is

164 emancipated and reciting the factual basis for such statement; which statement or affidavit is  
165 served by the court or division, as applicable, on the child support obligee; and which is either  
166 acknowledged and affirmed by the child support obligee in writing, or which is not responded  
167 to in writing within thirty days of receipt by the child support obligee;

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

181 13. The court may enter a judgment terminating child support pursuant to  
182 subdivisions (1) to (3) of subsection 12 of this section without necessity of a court appearance  
183 by either party. The clerk of the court shall mail a copy of a judgment terminating child  
184 support entered pursuant to subsection 12 of this section on both the obligor and obligee  
185 parents. The supreme court may promulgate uniform forms for sworn statements and  
186 affidavits to terminate orders of child support obligations for use pursuant to subsection 12 of  
187 this section and subsection 4 of section 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  
3 sole 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,  
9 but not necessarily equal, periods of time during which a child resides with or is under the  
10 care and supervision of each of the parents. Joint physical custody shall be shared by the  
11 parents in such a way as to assure the child of frequent, continuing and meaningful contact  
12 with both parents;

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

15 2. The court shall determine custody in accordance with the best interests of the child.  
16 There shall be a rebuttable presumption that an award of equal or approximately equal  
17 parenting time to each parent is in the best interests of the child. Such presumption is  
18 rebuttable only by a preponderance of the evidence in accordance with all relevant factors,  
19 including, but not limited to, the factors contained in subdivisions (1) to (8) of this subsection.  
20 The presumption may be rebutted if the court finds that the parents have reached an  
21 agreement on all issues related to custody, or if the court finds that a pattern of domestic  
22 violence has occurred as set out in subdivision (6) of this subsection. When the parties have  
23 not reached an agreement on all issues related to custody, the court shall consider all relevant  
24 factors and enter written findings of fact and conclusions of law, including, but not limited to,  
25 the following:

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

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

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

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

35 (5) The child's adjustment to the child's home, school, and community. The fact that a  
36 parent sends his or her child or children to a home school, as defined in section 167.031, shall  
37 not be the sole factor that a court considers in determining custody of such child or children;

38 (6) The mental and physical health of all individuals involved, including any history  
39 of abuse of any individuals involved. If the court finds that a pattern of domestic violence as  
40 defined in section 455.010 has occurred, and, if the court also finds that awarding custody to  
41 the abusive parent is in the best interest of the child, then the court shall enter written findings  
42 of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that  
43 best protects the child and any other child or children for whom the parent has custodial or  
44 visitation rights, and the parent or other family or household member who is the victim of  
45 domestic violence from any further harm;

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

47 (8) The unobstructed input of a child, free of coercion and manipulation, as to the  
48 child's custodial arrangement.

49           3. (1) In any court proceedings relating to custody of a child, the court shall not  
50 award custody or unsupervised visitation of a child to a parent if such parent or any person  
51 residing with such parent has been found guilty of, or pled guilty to, any of the following  
52 offenses when a child was the victim:

53           (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061,  
54 566.062, 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203,  
55 566.206, 566.209, 566.211, or 566.215;

56           (b) A violation of section 568.020;

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

58           (d) A violation of section 568.065;

59           (e) A violation of section 573.200;

60           (f) A violation of section 573.205; or

61           (g) A violation of section 568.175.

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

68           4. The general assembly finds and declares that it is the public policy of this state that  
69 frequent, continuing and meaningful contact with both parents after the parents have  
70 separated or dissolved their marriage is in the best interest of the child, except for cases where  
71 the court specifically finds that such contact is not in the best interest of the child, and that it  
72 is the public policy of this state to encourage parents to participate in decisions affecting the  
73 health, education and welfare of their children, and to resolve disputes involving their  
74 children amicably through alternative dispute resolution. In order to effectuate these policies,  
75 the general assembly encourages the court to enter a temporary parenting plan as early as  
76 practicable in a proceeding under this chapter, consistent with the provisions of subsection 2  
77 of this section, and, in so doing, the court shall determine the custody arrangement which will  
78 best assure both parents participate in such decisions and have frequent, continuing and  
79 meaningful contact with their children so long as it is in the best interests of the child.

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

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



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

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

90 (4) Sole custody to either parent; or

91 (5) Third-party custody or visitation:

92 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a  
93 custodian, or the welfare of the child requires, and it is in the best interests of the child, then  
94 custody, temporary custody or visitation may be awarded to a person related by consanguinity  
95 or affinity to the child. If no person related to the child by consanguinity or affinity is willing  
96 to accept custody, then the court may award custody to any other person or persons deemed  
97 by the court to be suitable and able to provide an adequate and stable environment for the  
98 child. Before the court awards custody, temporary custody or visitation to a third person  
99 under this subdivision, the court shall make that person a party to the action;

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

102 6. If the parties have not agreed to a custodial arrangement, or the court determines  
103 such arrangement is not in the best interest of the child, the court shall include a written  
104 finding in the judgment or order based on the public policy in subsection 4 of this section and  
105 each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the  
106 specific relevant factors that made a particular arrangement in the best interest of the child. If  
107 a proposed custodial arrangement is rejected by the court, the court shall include a written  
108 finding in the judgment or order detailing the specific relevant factors resulting in the  
109 rejection of such arrangement.

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

116 8. As between the parents of a child, no preference may be given to either parent in  
117 the awarding of custody because of that parent's age, sex, or financial status, nor because of  
118 the age or sex of the child. The court shall not presume that a parent, solely because of his or  
119 her sex, is more qualified than the other parent to act as a joint or sole legal or physical  
120 custodian for the child.

121 9. Any judgment providing for custody shall include a specific written parenting plan  
122 setting forth the terms of such parenting plan arrangements specified in subsection 8 of

123 section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to  
124 section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the  
125 custody plan approved and ordered by the court shall be in the court's discretion and shall be  
126 in the best interest of the child.

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

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

143 12. Unless a parent has been denied custody rights pursuant to this section or  
144 visitation rights under section 452.400 **or, upon the showing of proof, a noncustodial**  
145 **parent has failed to maintain contact with a minor child for a period of six years or**  
146 **more**, both parents shall have access to records and information pertaining to a minor child  
147 including, but not limited to, medical, dental, and school records. If the parent without  
148 custody has been granted restricted or supervised visitation because the court has found that  
149 the parent with custody or any child has been the victim of domestic violence, as defined in  
150 section 455.010, by the parent without custody, the court may order that the reports and  
151 records made available pursuant to this subsection not include the address of the parent with  
152 custody or the child. A court shall order that the reports and records made available under  
153 this subsection not include the address of the parent with custody if the parent with custody is  
154 a participant in the address confidentiality program under section 589.663. Unless a parent  
155 has been denied custody rights pursuant to this section or visitation rights under section  
156 452.400 **or, upon the showing of proof, a noncustodial parent has failed to maintain**  
157 **contact with a child for a period of six years or more**, any judgment of dissolution or other  
158 applicable court order shall specifically allow both parents access to such records and reports.

159           13. Except as otherwise precluded by state or federal law, if any individual,  
160 professional, public or private institution or organization denies access or fails to provide or  
161 disclose any and all records and information, including, but not limited to, past and present  
162 dental, medical and school records pertaining to a minor child, to either parent upon the  
163 written request of such parent, the court shall, upon its finding that the individual,  
164 professional, public or private institution or organization denied such request without good  
165 cause, order that party to comply immediately with such request and to pay to the prevailing  
166 party all costs incurred, including, but not limited to, attorney's fees and court costs associated  
167 with obtaining the requested information.

168           14. An award of joint custody does not preclude an award of child support pursuant to  
169 section 452.340 and applicable supreme court rules. The court shall consider the factors  
170 contained in section 452.340 and applicable supreme court rules in determining an amount  
171 reasonable or necessary for the support of the child.

172           15. If the court finds that domestic violence or abuse as defined in section 455.010  
173 has occurred, the court shall make specific findings of fact to show that the custody or  
174 visitation arrangement ordered by the court best protects the child and the parent or other  
175 family or household member who is the victim of domestic violence, as defined in section  
176 455.010, and any other children for whom such parent has custodial or visitation rights from  
177 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  
3 child's physical health or impair his or her emotional development. The court shall enter an  
4 order specifically detailing the visitation rights of the parent without physical custody rights  
5 to the 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  
8 granting 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  
11 of the following offenses when a child was the victim:

12           a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062,  
13 566.064, 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203,  
14 566.206, 566.209, 566.211, 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 573.200;

19 f. A violation of section 573.205; 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  
22 in paragraph (a) of this subdivision or for a violation of an offense committed in another state  
23 when a child is the victim that would be a violation of chapter 566 or 568 if committed in  
24 Missouri, the court may exercise its discretion in granting visitation to a parent not granted  
25 custody if such parent or any person residing with such parent has been found guilty of, or  
26 pled guilty to, any 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  
30 or 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  
34 family or household member who is the victim of domestic violence, or any other child for  
35 whom the parent has custodial or visitation rights from any further harm.

36 **(5) Notwithstanding any provision of law, a parent who has not been granted**  
37 **custody of the child and who has failed to maintain contact with such child for a period**  
38 **of six years or more shall not be entitled to any visitation rights. The custodial parent**  
39 **shall provide the court with proof that the parent who has not been granted custody of**  
40 **the child has failed to maintain contact with the child for a period of six years or more.**

41 2. (1) The court may modify an order granting or denying visitation rights whenever  
42 modification would serve the best interests of the child, but the court shall not restrict a  
43 parent's visitation rights unless it finds that the visitation would endanger the child's physical  
44 health or impair his or her emotional development.

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

49 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062,  
50 566.064, 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203,  
51 566.206, 566.209, 566.211, or 566.215;

52 b. A violation of section 568.020;

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

54 d. A violation of section 568.065;

55 e. A violation of section 573.200;

56 f. A violation of section 573.205; or

57 g. A violation of section 568.175.

58 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed  
59 in paragraph (a) of this subdivision or for a violation of an offense committed in another state  
60 when a child is the victim that would be a violation of chapter 566 or 568 if committed in  
61 Missouri, the division may exercise its discretion regarding the placement of a child taken  
62 into the custody of the state in which a parent or any person residing in the home has been  
63 found guilty of, or pled guilty to, any such offense.

64 (3) When a court restricts a parent's visitation rights or when a court orders  
65 supervised visitation because of allegations of abuse or domestic violence, a showing of proof  
66 of treatment and rehabilitation shall be made to the court before unsupervised visitation may  
67 be ordered.

68

69 "Supervised visitation", as used in this section, is visitation which takes place in the presence  
70 of a responsible adult appointed by the court for the protection of the child.

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

87 4. Within five court days after the filing of the family access motion pursuant to  
88 subsection 3 of this section, the clerk of the court shall issue a summons pursuant to  
89 applicable state law, and applicable local or supreme court rules. A copy of the motion shall  
90 be personally served upon the respondent by personal process server as provided by law or by  
91 any sheriff. Such service shall be served at the earliest time and shall take priority over

92 service in other civil actions, except those of an emergency nature or those filed pursuant to  
93 chapter 455. The motion shall contain the following statement in boldface type:

94 "PURSUANT TO SECTION 452.400, RSMO, YOU ARE  
95 REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN  
96 TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND  
97 TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

- 98 (1) AN ORDER FOR A COMPENSATORY PERIOD OF  
99 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT  
100 A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT  
101 LESS THAN THE PERIOD OF TIME DENIED;
- 102 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO  
103 EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF  
104 PROVIDING THE CHILD WITH A CONTINUING AND  
105 MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;
- 106 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED  
107 DOLLARS AGAINST THE VIOLATOR;
- 108 (4) REQUIRING THE VIOLATOR TO POST BOND OR  
109 SECURITY TO ENSURE FUTURE COMPLIANCE WITH  
110 THE COURT'S ORDERS;
- 111 (5) ORDERING THE VIOLATOR TO PAY THE COST OF  
112 COUNSELING TO REESTABLISH THE PARENT-CHILD  
113 RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND  
114 THE CHILD; AND
- 115 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE  
116 REASONABLE EXPENSES, INCLUDING ATTORNEY'S  
117 FEES AND COURT COSTS ACTUALLY INCURRED BY  
118 THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL  
119 OF CUSTODY, VISITATION OR THIRD-PARTY  
120 CUSTODY."

121 5. If an alternative dispute resolution program is available pursuant to section  
122 452.372, the clerk shall also provide information to all parties on the availability of any such  
123 services, and within fourteen days of the date of service, the court may schedule alternative  
124 dispute resolution.

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

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

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

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

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

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

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

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

150 9. Final disposition of a motion for a family access order filed pursuant to this section  
151 shall take place not more than sixty days after the service of such motion, unless waived by  
152 the parties or determined to be in the best interest of the child. Final disposition shall not  
153 include appellate review.

154 10. Motions filed pursuant to this section shall not be deemed an independent civil  
155 action from the original action pursuant to which the judgment or order sought to be enforced  
156 was entered.

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