

SECOND REGULAR SESSION

HOUSE BILL NO. 1775

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TERRY.

3593H.011

DANA RADEMAN MILLER, Chief Clerk

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.

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Section A. Sections 452.340, 452.375, and 452.400, RSMo, are repealed and three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 When the parties have not reached an agreement on all issues related to custody, the court
17 shall consider all relevant factors and enter written findings of fact and conclusions of law,
18 including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

45 (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061,
46 566.062, 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203,
47 566.206, 566.209, 566.211, or 566.215;

48 (b) A violation of section 568.020;

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

- 50 (d) A violation of section 568.065;
51 (e) A violation of section 573.200;
52 (f) A violation of section 573.205; or
53 (g) A violation of section 568.175.

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

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

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

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

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

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

80 (4) Sole custody to either parent; or

81 (5) Third-party custody or visitation:

82 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a
83 custodian, or the welfare of the child requires, and it is in the best interests of the child, then
84 custody, temporary custody or visitation may be awarded a person related by consanguinity or
85 affinity to the child. If no person related to the child by consanguinity or affinity is willing to
86 accept custody, then the court may award custody to any other person or persons deemed by

87 the court to be suitable and able to provide an adequate and stable environment for the child.
88 Before the court awards custody, temporary custody or visitation to a third person under this
89 subdivision, the court shall make that person a party to the action;

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

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

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

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

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

117 10. After August 28, 2016, every court order establishing or modifying custody or
118 visitation shall include the following language: "In the event of noncompliance with this
119 order, the aggrieved party may file a verified motion for contempt. If custody, visitation, or
120 third-party custody is denied or interfered with by a parent or third party without good cause,
121 the aggrieved person may file a family access motion with the court stating the specific facts
122 that constitute a violation of the custody provisions of the judgment of dissolution, legal
123 separation, or judgment of paternity. The circuit clerk will provide the aggrieved party with

124 an explanation of the procedures for filing a family access motion and a simple form for use
125 in filing the family access motion. A family access motion does not require the assistance of
126 legal counsel to prepare and file."

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

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

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

158 14. An award of joint custody does not preclude an award of child support pursuant to
159 section 452.340 and applicable supreme court rules. The court shall consider the factors

160 contained in section 452.340 and applicable supreme court rules in determining an amount
161 reasonable or necessary for the support of the child.

162 15. If the court finds that domestic violence or abuse as defined in section 455.010
163 has occurred, the court shall make specific findings of fact to show that the custody or
164 visitation arrangement ordered by the court best protects the child and the parent or other
165 family or household member who is the victim of domestic violence, as defined in section
166 455.010, and any other children for whom such parent has custodial or visitation rights from
167 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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