

SECOND REGULAR SESSION

HOUSE BILL NO. 2730

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHIELDS.

3983H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 452.370, RSMo, and to enact in lieu thereof two new sections relating to cost-of-living adjustments in maintenance and child support orders.

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

Section A. Section 452.370, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 452.369 and 452.370, to read as follows:

452.369. 1. (1) Notwithstanding any provision of law, an order establishing, modifying, or enforcing maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment shall become effective. The court may use the Consumer Price Index for All Urban Consumers (CPI-U) or another cost-of-living index published by the Department of Labor that the court specifically finds is more appropriate. Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

(2) The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the family support division. For cases in which payment is not made to the family support division, application for an adjustment may be made in any month, but no application for an adjustment shall be made sooner than two years after the date of the dissolution decree. The director of the department of social services may promulgate rules for child support adjustments under this section.

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.

17 **2. No adjustment under this section shall be made unless the order provides for**
18 **the adjustment and the family support division or the obligee, if the obligee is requesting**
19 **the cost-of-living adjustment, sends notice of the intended adjustment to the obligor at**
20 **the obligor's last known address at least twenty days before the effective date of the**
21 **adjustment. The notice shall inform the obligor of the date on which the adjustment will**
22 **become effective and the procedures for contesting the adjustment.**

23 **3. (1) To contest cost-of-living adjustments initiated by the family support**
24 **division or an obligee who has applied for or is receiving child support or maintenance**
25 **collection services from the family support division, other than income withholding-only**
26 **services, the obligor, before the effective date of the adjustment, shall:**

27 **(a) File a motion contesting the cost-of-living adjustment with the court; and**

28 **(b) Serve the motion by first-class mail on the family support division and the**
29 **obligee.**

30 **(2) To contest cost-of-living adjustments initiated by an obligee who is not**
31 **receiving child support or maintenance collection services from the family support**
32 **division, or for an obligee who receives income withholding-only services from the**
33 **family support division, the obligor shall, before the effective date of the adjustment:**

34 **(a) File a motion contesting the cost-of-living adjustment with the court; and**

35 **(b) Serve the motion by first-class mail on the obligee.**

36

37 **The hearing shall take place in the circuit court.**

38 **(3) Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-**
39 **living adjustment shall be stayed pending further order of the court.**

40 **(4) The court shall make available pro se motion forms for contesting a cost-of-**
41 **living adjustment under this subsection.**

42 **(5) The hearing to contest a cost-of-living adjustment under this subsection shall**
43 **be held on the next judicial day following service of process of the motion unless such**
44 **date is impossible. In such event, the court shall hold the hearing on the first day**
45 **possible. The court may extend the date of hearing at the request of the obligor. The**
46 **court shall issue an order directing the obligee to appear. The order shall state the time**
47 **and place of the hearing and may set an additional hearing to determine if further relief**
48 **is appropriate.**

49 **4. If, at a hearing under this section, the obligor establishes an insufficient cost-**
50 **of-living or other increase in income that prevents fulfillment of the adjusted**
51 **maintenance or basic support obligation, the court may direct that all or part of the**
52 **adjustment shall not take effect. If, at the hearing, the obligor does not establish the**

53 **insufficient increase in income, the adjustment shall take effect as of the date it would**
54 **have become effective had no hearing been requested.**

55 **5. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
56 **created under the authority delegated in this section shall become effective only if it**
57 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
58 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
59 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
60 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
61 **then the grant of rulemaking authority and any rule proposed or adopted after August**
62 **28, 2022, shall be invalid and void.**

452.370. 1. Except as otherwise provided in subsection 6 of section 452.325 **and**
2 **section 452.369**, the provisions of any judgment respecting maintenance or support may be
3 modified only upon a showing of changed circumstances so substantial and continuing as to
4 make the terms unreasonable. In a proceeding for modification of any child support or
5 maintenance judgment, the court, in determining whether or not a substantial change in
6 circumstances has occurred, shall consider all financial resources of both parties, including
7 the extent to which the reasonable expenses of either party are, or should be, shared by a
8 spouse or other person with whom he or she cohabits, and the earning capacity of a party who
9 is not employed. If the application of the child support guidelines and criteria set forth in
10 section 452.340 and applicable supreme court rules to the financial circumstances of the
11 parties would result in a change of child support from the existing amount by twenty percent
12 or more, a prima facie showing has been made of a change of circumstances so substantial
13 and continuing as to make the present terms unreasonable, if the existing amount was based
14 upon the presumed amount pursuant to the child support guidelines.

15 2. When the party seeking modification has met the burden of proof set forth in
16 subsection 1 of this section, the child support shall be determined in conformity with criteria
17 set forth in section 452.340 and applicable supreme court rules.

18 3. Unless otherwise agreed in writing or expressly provided in the judgment, the
19 obligation to pay future statutory maintenance is terminated upon the death of either party or
20 the remarriage of the party receiving maintenance.

21 4. Unless otherwise agreed in writing or expressly provided in the judgment,
22 provisions for the support of a child are terminated by emancipation of the child. The parent
23 entitled to receive child support shall have the duty to notify the parent obligated to pay
24 support of the child's emancipation and failing to do so, the parent entitled to receive child
25 support shall be liable to the parent obligated to pay support for child support paid following
26 emancipation of a minor child, plus interest.

27 5. If a parent has made an assignment of support rights to the family support division
28 on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary
29 Assistance for Needy Families program and either party initiates a motion to modify the
30 support obligation by reducing it, the state of Missouri shall be named as a party to the
31 proceeding. The state shall be served with a copy of the motion by sending it by certified
32 mail to the director of the family support division.

33 6. The court shall have continuing personal jurisdiction over both the obligee and the
34 obligor of a court order for child support or maintenance for the purpose of modifying such
35 order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the
36 support or maintenance order was entered of any change of mailing address. If personal
37 service of the motion cannot be had in this state, the motion to modify and notice of hearing
38 shall be served outside the state as provided by supreme court rule 54.14. The order may be
39 modified only as to support or maintenance installments which accrued subsequent to the date
40 of personal service. For the purpose of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall
41 be considered the appropriate agent to receive notice of the motion to modify for the obligee
42 or the obligor, but only in those instances in which personal service could not be had in this
43 state.

44 7. If a responsive pleading raising the issues of custody or visitation is filed in
45 response to a motion to modify child support filed at the request of the family support
46 division by a prosecuting attorney or circuit attorney or an attorney under contract with the
47 division, such responsive pleading shall be severed upon request.

48 8. Notwithstanding any provision of this section which requires a showing of
49 substantial and continuing change in circumstances, in a IV-D case filed pursuant to this
50 section by the family support division as provided in section 454.400, the court shall modify a
51 support order in accordance with the guidelines and criteria set forth in supreme court rule
52 88.01 and any regulations thereunder if the amount in the current order differs from the
53 amount which would be ordered in accordance with such guidelines or regulations.

✓