

# SENATE BILL NO. 214

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

0089S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 210.841 and 452.340, RSMo, and to enact in lieu thereof two new sections relating to child support for unborn children.

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

Section A. Sections 210.841 and 452.340, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 210.841 and 452.340, to read as follows:

210.841. 1. The judgment or order of the court  
2 determining the existence or nonexistence of the parent and  
3 child relationship is determinative for all purposes.

4 2. If the judgment or order of the court varies with  
5 the child's birth certificate, the court shall order that an  
6 amended birth registration be made pursuant to section  
7 210.849.

8 3. The judgment or order shall contain the Social  
9 Security number of each party and may contain any other  
10 provision directed against the appropriate party to the  
11 proceeding concerning:

12 (1) The duty of support;

13 (2) The custody and guardianship of the child;

14 (3) Visitation privileges with the child;

15 (4) The furnishing of bond or other security for the  
16 payment of the judgment; or

17 (5) Any matter in the best interest of the child. The  
18 judgment or order may direct the father to pay the

19 reasonable expenses of the mother's pregnancy and  
20 confinement.

21 4. Support judgments or orders ordinarily shall be for  
22 periodic payments. In the best interests of the child, a  
23 lump sum payment or the purchase of an annuity may be  
24 ordered in lieu of periodic payments of support. The court  
25 may limit the father's liability for past support of the  
26 child to the proportion of the expenses already incurred  
27 that the court deems just.

28 5. There shall be a rebuttable presumption that the  
29 amount of support that would result from the application of  
30 supreme court rule 88.01 is the correct amount of child  
31 support to be awarded. A written finding or specific  
32 finding on the record that the application of supreme court  
33 rule 88.01 would be unjust or inappropriate in a particular  
34 case, after considering all relevant factors including the  
35 factors in subsection 6 of this section, shall be sufficient  
36 to rebut the presumption in the case.

37 6. In determining the amount to be paid by a parent  
38 for support of the child and the period during which the  
39 duty of support is owed, the court shall consider all  
40 relevant facts, including:

- 41 (1) The needs of the child;
- 42 (2) The standard of living and circumstances of the  
43 parents;
- 44 (3) The relative financial means of the parents;
- 45 (4) The earning ability of the parents;
- 46 (5) The need and capacity of the child for education,  
47 including higher education;
- 48 (6) The age of the child;
- 49 (7) The financial resources and earning capacity of  
50 the child;

51           (8) The responsibility of the parents for the support  
52 of other children;

53           (9) The value of the services contributed by the  
54 custodial parent; and

55           (10) The standard of living and circumstances of the  
56 family prior to the dissolution of marriage of parents or  
57 during the period of cohabitation of the parents.

58           7. Any award for periodic child support may be  
59 retroactive to the date of service of the original petition  
60 upon the obligor.

61           **8. (1) A biological father of a child shall have a**  
62 **duty to pay fifty percent of the mother's pregnancy-related**  
63 **expenses. If paternity is contested, the biological father**  
64 **shall not be obligated to pay such expenses until such time**  
65 **as paternity has been established. Payments for the**  
66 **biological father's obligation may be retroactively awarded**  
67 **under this subsection. Any portion of a mother's pregnancy-**  
68 **related expenses paid by the mother or biological father**  
69 **shall reduce that parent's fifty-percent share under this**  
70 **subdivision and not the total amount of pregnancy-related**  
71 **expenses.**

72           **(2) Any order awarding pregnancy-related expenses**  
73 **under this subsection may be made as part of a child support**  
74 **order under this section or as a separate order. Nothing in**  
75 **this subsection shall prohibit a party from petitioning the**  
76 **court for appropriate child support in addition to or**  
77 **separate from an order under this subsection.**

78           **(3) Any order awarding pregnancy-related expenses**  
79 **under this subsection may be enforced in the same manner as**  
80 **any child support order entered by the court under this**  
81 **section.**

82           (4) As used in this subsection, "pregnancy-related  
83 expenses" shall include, but not be limited to, the pregnant  
84 mother's health insurance premiums while pregnant that are  
85 not paid by an employer or government agency and medical  
86 costs related to the pregnancy incurred after the date of  
87 conception and through the end of the pregnancy, including  
88 expenses related to birth, stillbirth, or miscarriage.

          452.340. 1. In a proceeding for dissolution of  
2 marriage, legal separation or child support, the court may  
3 order either or both parents owing a duty of support to a  
4 child of the marriage to pay an amount reasonable or  
5 necessary for the support of the child, including an award  
6 retroactive to the date of filing the petition, without  
7 regard to marital misconduct, after considering all relevant  
8 factors including:

- 9           (1) The financial needs and resources of the child;
- 10          (2) The financial resources and needs of the parents;
- 11          (3) The standard of living the child would have  
12 enjoyed had the marriage not been dissolved;
- 13          (4) The physical and emotional condition of the child,  
14 and the child's educational needs;
- 15          (5) The child's physical and legal custody  
16 arrangements, including the amount of time the child spends  
17 with each parent and the reasonable expenses associated with  
18 the custody or visitation arrangements; and
- 19          (6) The reasonable work-related child care expenses of  
20 each parent.

21          2. The obligation of the parent ordered to make  
22 support payments shall abate, in whole or in part, for such  
23 periods of time in excess of thirty consecutive days that  
24 the other parent has voluntarily relinquished physical  
25 custody of a child to the parent ordered to pay child

26 support, notwithstanding any periods of visitation or  
27 temporary physical and legal or physical or legal custody  
28 pursuant to a judgment of dissolution or legal separation or  
29 any modification thereof. In a IV-D case, the family  
30 support division may determine the amount of the abatement  
31 pursuant to this subsection for any child support order and  
32 shall record the amount of abatement in the automated child  
33 support system record established pursuant to chapter 454.  
34 If the case is not a IV-D case and upon court order, the  
35 circuit clerk shall record the amount of abatement in the  
36 automated child support system record established in chapter  
37 454.

38 3. Unless the circumstances of the child manifestly  
39 dictate otherwise and the court specifically so provides,  
40 the obligation of a parent to make child support payments  
41 shall terminate when the child:

- 42 (1) Dies;
- 43 (2) Marries;
- 44 (3) Enters active duty in the military;
- 45 (4) Becomes self-supporting, provided that the  
46 custodial parent has relinquished the child from parental  
47 control by express or implied consent;
- 48 (5) Reaches age eighteen, unless the provisions of  
49 subsection 4 or 5 of this section apply; or
- 50 (6) Reaches age twenty-one, unless the provisions of  
51 the child support order specifically extend the parental  
52 support order past the child's twenty-first birthday for  
53 reasons provided by subsection 4 of this section.

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

58           5. If when a child reaches age eighteen, the child is  
59 enrolled in and attending a secondary school program of  
60 instruction, the parental support obligation shall continue,  
61 if the child continues to attend and progresses toward  
62 completion of said program, until the child completes such  
63 program or reaches age twenty-one, whichever first occurs.  
64 If the child is enrolled in an institution of vocational or  
65 higher education not later than October first following  
66 graduation from a secondary school or completion of a  
67 graduation equivalence degree program and so long as the  
68 child enrolls for and completes at least twelve hours of  
69 credit each semester, not including the summer semester, at  
70 an institution of vocational or higher education and  
71 achieves grades sufficient to reenroll at such institution,  
72 the parental support obligation shall continue until the  
73 child completes his or her education, or until the child  
74 reaches the age of twenty-one, whichever first occurs. To  
75 remain eligible for such continued parental support, at the  
76 beginning of each semester the child shall submit to each  
77 parent a transcript or similar official document provided by  
78 the institution of vocational or higher education which  
79 includes the courses the child is enrolled in and has  
80 completed for each term, the grades and credits received for  
81 each such course, and an official document from the  
82 institution listing the courses which the child is enrolled  
83 in for the upcoming term and the number of credits for each  
84 such course. When enrolled in at least twelve credit hours,  
85 if the child receives failing grades in half or more of his  
86 or her courseload in any one semester, payment of child  
87 support may be terminated and shall not be eligible for  
88 reinstatement. Upon request for notification of the child's  
89 grades by the noncustodial parent, the child shall produce

90 the required documents to the noncustodial parent within  
91 thirty days of receipt of grades from the education  
92 institution. If the child fails to produce the required  
93 documents, payment of child support may terminate without  
94 the accrual of any child support arrearage and shall not be  
95 eligible for reinstatement. If the circumstances of the  
96 child manifestly dictate, the court may waive the October  
97 first deadline for enrollment required by this subsection.  
98 If the child is enrolled in such an institution, the child  
99 or parent obligated to pay support may petition the court to  
100 amend the order to direct the obligated parent to make the  
101 payments directly to the child. As used in this section, an  
102 "institution of vocational education" means any  
103 postsecondary training or schooling for which the student is  
104 assessed a fee and attends classes regularly. "Higher  
105 education" means any community college, college, or  
106 university at which the child attends classes regularly. A  
107 child who has been diagnosed with a developmental  
108 disability, as defined in section 630.005, or whose physical  
109 disability or diagnosed health problem limits the child's  
110 ability to carry the number of credit hours prescribed in  
111 this subsection, shall remain eligible for child support so  
112 long as such child is enrolled in and attending an  
113 institution of vocational or higher education, and the child  
114 continues to meet the other requirements of this  
115 subsection. A child who is employed at least fifteen hours  
116 per week during the semester may take as few as nine credit  
117 hours per semester and remain eligible for child support so  
118 long as all other requirements of this subsection are  
119 complied with.

120 6. The court shall consider ordering a parent to waive  
121 the right to claim the tax dependency exemption for a child

122 enrolled in an institution of vocational or higher education  
123 in favor of the other parent if the application of state and  
124 federal tax laws and eligibility for financial aid will make  
125 an award of the exemption to the other parent appropriate.

126         7. The general assembly finds and declares that it is  
127 the public policy of this state that frequent, continuing  
128 and meaningful contact with both parents after the parents  
129 have separated or dissolved their marriage is in the best  
130 interest of the child except for cases where the court  
131 specifically finds that such contact is not in the best  
132 interest of the child. In order to effectuate this public  
133 policy, a court with jurisdiction shall enforce visitation,  
134 custody and child support orders in the same manner. A  
135 court with jurisdiction may abate, in whole or in part, any  
136 past or future obligation of support and may transfer the  
137 physical and legal or physical or legal custody of one or  
138 more children if it finds that a parent has, without good  
139 cause, failed to provide visitation or physical and legal or  
140 physical or legal custody to the other parent pursuant to  
141 the terms of a judgment of dissolution, legal separation or  
142 modifications thereof. The court shall also award, if  
143 requested and for good cause shown, reasonable expenses,  
144 attorney's fees and court costs incurred by the prevailing  
145 party.

146         8. The Missouri supreme court shall have in effect a  
147 rule establishing guidelines by which any award of child  
148 support shall be made in any judicial or administrative  
149 proceeding. Said guidelines shall contain specific,  
150 descriptive and numeric criteria which will result in a  
151 computation of the support obligation. The guidelines shall  
152 address how the amount of child support shall be calculated  
153 when an award of joint physical custody results in the child



154 or children spending equal or substantially equal time with  
155 both parents and the directions and comments and any tabular  
156 representations of the directions and comments for  
157 completion of the child support guidelines and a subsequent  
158 form developed to reflect the guidelines shall reflect the  
159 ability to obtain up to a fifty percent adjustment or credit  
160 below the basic child support amount for joint physical  
161 custody or visitation as described in subsection 11 of this  
162 section. The Missouri supreme court shall publish child  
163 support guidelines and specifically list and explain the  
164 relevant factors and assumptions that were used to calculate  
165 the child support guidelines. Any rule made pursuant to  
166 this subsection shall be reviewed by the promulgating body  
167 not less than once every four years to ensure that its  
168 application results in the determination of appropriate  
169 child support award amounts.

170 9. There shall be a rebuttable presumption, in any  
171 judicial or administrative proceeding for the award of child  
172 support, that the amount of the award which would result  
173 from the application of the guidelines established pursuant  
174 to subsection 8 of this section is the correct amount of  
175 child support to be awarded. A written finding or specific  
176 finding on the record in a judicial or administrative  
177 proceeding that the application of the guidelines would be  
178 unjust or inappropriate in a particular case, after  
179 considering all relevant factors, including the factors set  
180 out in subsection 1 of this section, shall be required and  
181 shall be sufficient to rebut the presumption in the case.  
182 The written finding or specific finding on the record shall  
183 detail the specific relevant factors that required a  
184 deviation from the application of the guidelines.

185           10. Pursuant to this or any other chapter, when a  
186 court determines the amount owed by a parent for support  
187 provided to a child by another person, other than a parent,  
188 prior to the date of filing of a petition requesting  
189 support, or when the director of the family support division  
190 establishes the amount of state debt due pursuant to  
191 subdivision (2) of subsection 1 of section 454.465, the  
192 court or director shall use the guidelines established  
193 pursuant to subsection 8 of this section. The amount of  
194 child support resulting from the application of the  
195 guidelines shall be applied retroactively for a period prior  
196 to the establishment of a support order and the length of  
197 the period of retroactivity shall be left to the discretion  
198 of the court or director. There shall be a rebuttable  
199 presumption that the amount resulting from application of  
200 the guidelines under subsection 8 of this section  
201 constitutes the amount owed by the parent for the period  
202 prior to the date of the filing of the petition for support  
203 or the period for which state debt is being established. In  
204 applying the guidelines to determine a retroactive support  
205 amount, when information as to average monthly income is  
206 available, the court or director may use the average monthly  
207 income of the noncustodial parent, as averaged over the  
208 period of retroactivity, in determining the amount of  
209 presumed child support owed for the period of  
210 retroactivity. The court or director may enter a different  
211 amount in a particular case upon finding, after  
212 consideration of all relevant factors, including the factors  
213 set out in subsection 1 of this section, that there is  
214 sufficient cause to rebut the presumed amount.

215           11. The court may award child support in an amount  
216 that provides up to a fifty percent adjustment below the

217 basic child support amount authorized by the child support  
218 guidelines described under subsection 8 of this section for  
219 custody awards of joint physical custody where the child or  
220 children spend equal or substantially equal time with both  
221 parents.

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

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

232             (2) The obligation shall be deemed terminated without  
233 further judicial or administrative process when the parent  
234 receiving child support furnishes a sworn statement or  
235 affidavit notifying the obligor parent of the child's  
236 emancipation in accordance with the requirements of  
237 subsection 4 of section 452.370, and a copy of such sworn  
238 statement or affidavit is filed with the court which entered  
239 the order establishing the child support obligation, or the  
240 family support division for an order entered under section  
241 454.470;

242             (3) The obligation shall be deemed terminated without  
243 further judicial or administrative process when the parent  
244 paying child support files a sworn statement or affidavit  
245 with the court which entered the order establishing the  
246 child support obligation, or the family support division for  
247 an order entered under section 454.470, stating that the  
248 child is emancipated and reciting the factual basis for such

249 statement; which statement or affidavit is served by the  
250 court or division, as applicable, on the child support  
251 obligee; and which is either acknowledged and affirmed by  
252 the child support obligee in writing, or which is not  
253 responded to in writing within thirty days of receipt by the  
254 child support obligee;

255 (4) The obligation shall be terminated as provided by  
256 this subdivision by the court which entered the order  
257 establishing the child support obligation, or the family  
258 support division for an order entered under section 454.470,  
259 when the parent paying child support files a sworn statement  
260 or affidavit with the court which entered the order  
261 establishing the child support obligation, or the family  
262 support division, as applicable, stating that the child is  
263 emancipated and reciting the factual basis for such  
264 statement; and which statement or affidavit is served by the  
265 court or division, as applicable, on the child support  
266 obligee. If the obligee denies the statement or affidavit,  
267 the court or division shall thereupon treat the sworn  
268 statement or affidavit as a request for hearing and shall  
269 proceed to hear and adjudicate such request for hearing as  
270 provided by law; provided that the court may require the  
271 payment of a deposit as security for court costs and any  
272 accrued court costs, as provided by law, in relation to such  
273 request for hearing. When the division receives a request  
274 for hearing, the hearing shall be held in the manner  
275 provided by section 454.475.

276 13. The court may enter a judgment terminating child  
277 support pursuant to subdivisions (1) to (3) of subsection 12  
278 of this section without necessity of a court appearance by  
279 either party. The clerk of the court shall mail a copy of a  
280 judgment terminating child support entered pursuant to

281 subsection 12 of this section on both the obligor and  
282 obligee parents. The supreme court may promulgate uniform  
283 forms for sworn statements and affidavits to terminate  
284 orders of child support obligations for use pursuant to  
285 subsection 12 of this section and subsection 4 of section  
286 452.370.

287       **14. (1) A biological father of a child shall have a**  
288 **duty to pay fifty percent of the mother's pregnancy-related**  
289 **expenses. If paternity is contested, the biological father**  
290 **shall not be obligated to pay such expenses until such time**  
291 **as paternity has been established. Payments for the**  
292 **biological father's obligation may be retroactively awarded**  
293 **under this subsection. Any portion of a mother's pregnancy-**  
294 **related expenses paid by the mother or biological father**  
295 **shall reduce that parent's fifty-percent share under this**  
296 **subdivision and not the total amount of pregnancy-related**  
297 **expenses.**

298       **(2) Any order awarding pregnancy-related expenses**  
299 **under this subsection may be made as part of a child support**  
300 **order under this section or as a separate order. Nothing in**  
301 **this subsection shall prohibit a party from petitioning the**  
302 **court for appropriate child support in addition to or**  
303 **separate from an order under this subsection.**

304       **(3) Any order awarding pregnancy-related expenses**  
305 **under this subsection may be enforced in the same manner as**  
306 **any child support order entered by the court under this**  
307 **section.**

308       **(4) As used in this subsection, "pregnancy-related**  
309 **expenses" shall include, but not be limited to, the pregnant**  
310 **mother's health insurance premiums while pregnant that are**  
311 **not paid by an employer or government agency and medical**  
312 **costs related to the pregnancy incurred after the date of**

313 conception and through the end of the pregnancy, including  
314 expenses related to birth, stillbirth, or miscarriage.

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