

SECOND REGULAR SESSION

# SENATE BILL NO. 695

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time January 9, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5101S.011

## AN ACT

To repeal section 454.500, RSMo, and to enact in lieu thereof one new section relating to the authority to add a child through modification of an administrative child support order.

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

Section A. Section 454.500, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 454.500, to read as follows:

454.500. 1. At any time after the entry of an order pursuant to sections  
2 454.470 and 454.475, the obligated parent, the division, or the person or agency  
3 having custody of the dependent child may file a motion for modification with the  
4 director. Such motion shall be in writing, shall set forth the reasons for  
5 modification, and shall state the address of the moving party. The motion shall  
6 be served by the moving party in the manner provided for in subsection 5 of  
7 section 454.465 upon the obligated parent or the party holding the support rights,  
8 as appropriate. In addition, if the support rights are held by the division of  
9 family services on behalf of the state, a true copy of the motion shall be mailed  
10 by the moving party by certified mail to the person having custody of the  
11 dependent child at the last known address of that person. A hearing on the  
12 motion shall then be provided in the same manner, and determinations shall be  
13 based on considerations set out in section 454.475, unless the party served fails  
14 to respond within thirty days, in which case the director may enter an order by  
15 default. If the child for whom the order applies is no longer in the custody of a  
16 person receiving public assistance or receiving support enforcement services from  
17 the department, or a division thereof, pursuant to section 454.425, the director  
18 may certify the matter for hearing to the circuit court in which the order was filed

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 pursuant to section 454.490 in lieu of holding a hearing pursuant to section  
20 454.475. If the director certifies the matter for hearing to the circuit court,  
21 service of the motion to modify shall be had in accordance with the provisions of  
22 subsection 5 of section 452.370. If the director does not certify the matter for  
23 hearing to the circuit court, service of the motion to modify shall be considered  
24 complete upon personal service, or on the date of mailing, if sent by certified  
25 mail. For the purpose of 42 U.S.C. 666(a)(9)(C), the director shall be considered  
26 the appropriate agent to receive the notice of the motion to modify for the obligee  
27 or the obligor, but only in those instances in which the matter is not certified to  
28 circuit court for hearing, and only when service of the motion is attempted on the  
29 obligee or obligor by certified mail.

30         2. A motion for modification made pursuant to this section shall not stay  
31 the director from enforcing and collecting upon the existing order pending the  
32 modification proceeding unless so ordered by the court.

33         3. Only payments accruing subsequent to the service of the motion for  
34 modification upon all named parties to the motion may be modified. Modification  
35 may be granted only upon a showing of a change of circumstances so substantial  
36 and continuing as to make the terms unreasonable. In a proceeding for  
37 modification of any child support award, the director, in determining whether or  
38 not a substantial change in circumstances has occurred, shall consider all  
39 financial resources of both parties, including the extent to which the reasonable  
40 expenses of either party are, or should be, shared by a spouse or other person  
41 with whom he or she cohabits, and the earning capacity of a party who is not  
42 employed. If the application of the guidelines and criteria set forth in supreme  
43 court rule 88.01 to the financial circumstances of the parties would result in a  
44 change of child support from the existing amount by twenty percent or more, then  
45 a prima facie showing has been made of a change of circumstances so substantial  
46 and continuing as to make the present terms unreasonable.

47         4. **If the division has entered an order under section 454.470 or**  
48 **454.500, and an additional child or children not the subject of the order**  
49 **are born to the parties, the division shall modify the underlying child**  
50 **support order to include a single child support obligation for all**  
51 **children of the parties in conformity with the criteria set forth in**  
52 **supreme court rule 88.01.**

53         5. The circuit court may, upon such terms as may be just, relieve a parent  
54 from an administrative order entered against that parent because of mistake,

55 inadvertence, surprise, or excusable neglect.

56 [5.] 6. No order entered pursuant to section 454.476 shall be modifiable  
57 pursuant to this section, except that an order entered pursuant to section 454.476  
58 shall be amended by the director to conform with any modification made by the  
59 court that entered the court order upon which the director based his or her order.

60 [6.] 7. When the party seeking modifications has met the burden of proof  
61 set forth in subsection 3 of this section, then the child support shall be  
62 determined in conformity with the criteria set forth in supreme court rule 88.01.

63 [7.] 8. The last four digits of the Social Security number of the parents  
64 shall be recorded on any order entered pursuant to this section. The full Social  
65 Security number of each party and each child shall be retained in the manner  
66 required by section 509.520.

✓

Bill

Copy