

SENATE BILL NO. 857

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOSLEY.

3175S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 452.340, 452.375, 452.377, 452.780, 453.110, and 475.060, RSMo, and to enact in lieu thereof six new sections relating to child custody, with penalty provisions.

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

Section A. Sections 452.340, 452.375, 452.377, 452.780, 2 453.110, and 475.060, RSMo, are repealed and six new sections 3 enacted in lieu thereof, to be known as sections 452.340, 4 452.375, 452.377, 452.780, 453.110, and 475.060, to read as 5 follows:

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

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

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 **or third party custodian** has voluntarily
25 relinquished physical custody of a child to the parent
26 ordered to pay child support, notwithstanding any periods of
27 visitation or temporary physical and legal or physical or
28 legal custody pursuant to a judgment of dissolution or legal
29 separation or any modification thereof, **or has permanently**
30 **transferred custody of the child to a third party in**
31 **violation of section 453.110.** In a IV-D case, the family
32 support division may determine the amount of the abatement
33 pursuant to this subsection for any child support order and
34 shall record the amount of abatement in the automated child
35 support system record established pursuant to chapter 454.
36 If the case is not a IV-D case and upon court order, the
37 circuit clerk shall record the amount of abatement in the
38 automated child support system record established in chapter
39 454.

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

- 44 (1) Dies;
- 45 (2) Marries;
- 46 (3) Enters active duty in the military;

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

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

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

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

60 5. If when a child reaches age eighteen, the child is
61 enrolled in and attending a secondary school program of
62 instruction, the parental support obligation shall continue,
63 if the child continues to attend and progresses toward
64 completion of said program, until the child completes such
65 program or reaches age twenty-one, whichever first occurs.
66 If the child is enrolled in an institution of vocational or
67 higher education not later than October first following
68 graduation from a secondary school or completion of a
69 graduation equivalence degree program and so long as the
70 child enrolls for and completes at least twelve hours of
71 credit each semester, not including the summer semester, at
72 an institution of vocational or higher education and
73 achieves grades sufficient to reenroll at such institution,
74 the parental support obligation shall continue until the
75 child completes his or her education, or until the child
76 reaches the age of twenty-one, whichever first occurs. To
77 remain eligible for such continued parental support, at the
78 beginning of each semester the child shall submit to each

79 parent a transcript or similar official document provided by
80 the institution of vocational or higher education which
81 includes the courses the child is enrolled in and has
82 completed for each term, the grades and credits received for
83 each such course, and an official document from the
84 institution listing the courses which the child is enrolled
85 in for the upcoming term and the number of credits for each
86 such course. When enrolled in at least twelve credit hours,
87 if the child receives failing grades in half or more of his
88 or her courseload in any one semester, payment of child
89 support may be terminated and shall not be eligible for
90 reinstatement. Upon request for notification of the child's
91 grades by the noncustodial parent, the child shall produce
92 the required documents to the noncustodial parent within
93 thirty days of receipt of grades from the education
94 institution. If the child fails to produce the required
95 documents, payment of child support may terminate without
96 the accrual of any child support arrearage and shall not be
97 eligible for reinstatement. If the circumstances of the
98 child manifestly dictate, the court may waive the October
99 first deadline for enrollment required by this subsection.
100 If the child is enrolled in such an institution, the child
101 or parent obligated to pay support may petition the court to
102 amend the order to direct the obligated parent to make the
103 payments directly to the child. As used in this section, an
104 "institution of vocational education" means any
105 postsecondary training or schooling for which the student is
106 assessed a fee and attends classes regularly. "Higher
107 education" means any community college, college, or
108 university at which the child attends classes regularly. A
109 child who has been diagnosed with a developmental
110 disability, as defined in section 630.005, or whose physical

111 disability or diagnosed health problem limits the child's
112 ability to carry the number of credit hours prescribed in
113 this subsection, shall remain eligible for child support so
114 long as such child is enrolled in and attending an
115 institution of vocational or higher education, and the child
116 continues to meet the other requirements of this
117 subsection. A child who is employed at least fifteen hours
118 per week during the semester may take as few as nine credit
119 hours per semester and remain eligible for child support so
120 long as all other requirements of this subsection are
121 complied with.

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

128 7. The general assembly finds and declares that it is
129 the public policy of this state that frequent, continuing
130 and meaningful contact with both parents after the parents
131 have separated or dissolved their marriage is in the best
132 interest of the child except for cases where the court
133 specifically finds that such contact is not in the best
134 interest of the child. In order to effectuate this public
135 policy, a court with jurisdiction shall enforce visitation,
136 custody and child support orders in the same manner. A
137 court with jurisdiction may abate, in whole or in part, any
138 past or future obligation of support and may transfer the
139 physical and legal or physical or legal custody of one or
140 more children if it finds that a parent has, without good
141 cause, failed to provide visitation or physical and legal or
142 physical or legal custody to the other parent pursuant to

143 the terms of a judgment of dissolution, legal separation or
144 modifications thereof. The court shall also award, if
145 requested and for good cause shown, reasonable expenses,
146 attorney's fees and court costs incurred by the prevailing
147 party.

148 8. The Missouri supreme court shall have in effect a
149 rule establishing guidelines by which any award of child
150 support shall be made in any judicial or administrative
151 proceeding. Said guidelines shall contain specific,
152 descriptive and numeric criteria which will result in a
153 computation of the support obligation. The guidelines shall
154 address how the amount of child support shall be calculated
155 when an award of joint physical custody results in the child
156 or children spending equal or substantially equal time with
157 both parents and the directions and comments and any tabular
158 representations of the directions and comments for
159 completion of the child support guidelines and a subsequent
160 form developed to reflect the guidelines shall reflect the
161 ability to obtain up to a fifty percent adjustment or credit
162 below the basic child support amount for joint physical
163 custody or visitation as described in subsection 11 of this
164 section. The Missouri supreme court shall publish child
165 support guidelines and specifically list and explain the
166 relevant factors and assumptions that were used to calculate
167 the child support guidelines. Any rule made pursuant to
168 this subsection shall be reviewed by the promulgating body
169 not less than once every four years to ensure that its
170 application results in the determination of appropriate
171 child support award amounts.

172 9. There shall be a rebuttable presumption, in any
173 judicial or administrative proceeding for the award of child
174 support, that the amount of the award which would result

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

187 10. Pursuant to this or any other chapter, when a
188 court determines the amount owed by a parent for support
189 provided to a child by another person, other than a parent,
190 prior to the date of filing of a petition requesting
191 support, or when the director of the family support division
192 establishes the amount of state debt due pursuant to
193 subdivision (2) of subsection 1 of section 454.465, the
194 court or director shall use the guidelines established
195 pursuant to subsection 8 of this section. The amount of
196 child support resulting from the application of the
197 guidelines shall be applied retroactively for a period prior
198 to the establishment of a support order and the length of
199 the period of retroactivity shall be left to the discretion
200 of the court or director. There shall be a rebuttable
201 presumption that the amount resulting from application of
202 the guidelines under subsection 8 of this section
203 constitutes the amount owed by the parent for the period
204 prior to the date of the filing of the petition for support
205 or the period for which state debt is being established. In
206 applying the guidelines to determine a retroactive support

207 amount, when information as to average monthly income is
208 available, the court or director may use the average monthly
209 income of the noncustodial parent, as averaged over the
210 period of retroactivity, in determining the amount of
211 presumed child support owed for the period of
212 retroactivity. The court or director may enter a different
213 amount in a particular case upon finding, after
214 consideration of all relevant factors, including the factors
215 set out in subsection 1 of this section, that there is
216 sufficient cause to rebut the presumed amount.

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

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

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

234 (2) The obligation shall be deemed terminated without
235 further judicial or administrative process when the parent
236 receiving child support furnishes a sworn statement or
237 affidavit notifying the obligor parent of the child's
238 emancipation in accordance with the requirements of

239 subsection 4 of section 452.370, and a copy of such sworn
240 statement or affidavit is filed with the court which entered
241 the order establishing the child support obligation, or the
242 family support division for an order entered under section
243 454.470;

244 (3) The obligation shall be deemed terminated without
245 further judicial or administrative process when the parent
246 paying child support files a sworn statement or affidavit
247 with the court which entered the order establishing the
248 child support obligation, or the family support division for
249 an order entered under section 454.470, stating that the
250 child is emancipated and reciting the factual basis for such
251 statement; which statement or affidavit is served by the
252 court or division, as applicable, on the child support
253 obligee; and which is either acknowledged and affirmed by
254 the child support obligee in writing, or which is not
255 responded to in writing within thirty days of receipt by the
256 child support obligee;

257 (4) The obligation shall be terminated as provided by
258 this subdivision by the court which entered the order
259 establishing the child support obligation, or the family
260 support division for an order entered under section 454.470,
261 when the parent paying child support files a sworn statement
262 or affidavit with the court which entered the order
263 establishing the child support obligation, or the family
264 support division, as applicable, stating that the child is
265 emancipated and reciting the factual basis for such
266 statement; and which statement or affidavit is served by the
267 court or division, as applicable, on the child support
268 obligee. If the obligee denies the statement or affidavit,
269 the court or division shall thereupon treat the sworn
270 statement or affidavit as a request for hearing and shall

271 proceed to hear and adjudicate such request for hearing as
272 provided by law; provided that the court may require the
273 payment of a deposit as security for court costs and any
274 accrued court costs, as provided by law, in relation to such
275 request for hearing. When the division receives a request
276 for hearing, the hearing shall be held in the manner
277 provided by section 454.475.

278 13. The court may enter a judgment terminating child
279 support pursuant to subdivisions (1) to (3) of subsection 12
280 of this section without necessity of a court appearance by
281 either party. The clerk of the court shall mail a copy of a
282 judgment terminating child support entered pursuant to
283 subsection 12 of this section on both the obligor and
284 obligee parents. The supreme court may promulgate uniform
285 forms for sworn statements and affidavits to terminate
286 orders of child support obligations for use pursuant to
287 subsection 12 of this section and subsection 4 of section
288 452.370.

452.375. 1. As used in this chapter, unless the
2 context clearly indicates otherwise:

3 (1) "Custody" means joint legal custody, sole legal
4 custody, joint physical custody or sole physical custody or
5 any combination thereof;

6 (2) "Joint legal custody" means that the parents share
7 the decision-making rights, responsibilities, and authority
8 relating to the health, education and welfare of the child,
9 and, unless allocated, apportioned, or decreed, the parents
10 shall confer with one another in the exercise of decision-
11 making rights, responsibilities, and authority;

12 (3) "Joint physical custody" means an order awarding
13 each of the parents significant, but not necessarily equal,
14 periods of time during which a child resides with or is

15 under the care and supervision of each of the parents.
16 Joint physical custody shall be shared by the parents in
17 such a way as to assure the child of frequent, continuing
18 and meaningful contact with both parents;

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

22 2. The court shall determine custody in accordance
23 with the best interests of the child. When the parties have
24 not reached an agreement on all issues related to custody,
25 the court shall consider all relevant factors and enter
26 written findings of fact and conclusions of law, including,
27 but not limited to, the following:

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

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

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

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

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

42 (6) The mental and physical health of all individuals
43 involved, including any history of abuse of any individuals
44 involved. If the court finds that a pattern of domestic
45 violence as defined in section 455.010 has occurred, and, if
46 the court also finds that awarding custody to the abusive

47 parent is in the best interest of the child, then the court
48 shall enter written findings of fact and conclusions of
49 law. Custody and visitation rights shall be ordered in a
50 manner that best protects the child and any other child or
51 children for whom the parent has custodial or visitation
52 rights, and the parent or other family or household member
53 who is the victim of domestic violence from any further harm;

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

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

61 3. (1) In any court proceedings relating to custody
62 of a child, the court shall not award custody or
63 unsupervised visitation of a child to a parent if such
64 parent or any person residing with such parent has been
65 found guilty of, or pled guilty to, any of the following
66 offenses when a child was the victim:

67 (a) A felony violation of section 566.030, 566.031,
68 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,
69 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,
70 566.203, 566.206, 566.209, 566.211, or 566.215;

71 (b) A violation of section 568.020;

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

74 (d) A violation of section 568.065;

75 (e) A violation of section 573.200;

76 (f) A violation of section 573.205; or

77 (g) A violation of section 568.175.

78 (2) For all other violations of offenses in chapters
79 566 and 568 not specifically listed in subdivision (1) of
80 this subsection or for a violation of an offense committed
81 in another state when a child is the victim that would be a
82 violation of chapter 566 or 568 if committed in Missouri,
83 the court may exercise its discretion in awarding custody or
84 visitation of a child to a parent if such parent or any
85 person residing with such parent has been found guilty of,
86 or pled guilty to, any such offense.

87 4. The general assembly finds and declares that it is
88 the public policy of this state that frequent, continuing
89 and meaningful contact with both parents after the parents
90 have separated or dissolved their marriage is in the best
91 interest of the child, except for cases where the court
92 specifically finds that such contact is not in the best
93 interest of the child, and that it is the public policy of
94 this state to encourage parents to participate in decisions
95 affecting the health, education and welfare of their
96 children, and to resolve disputes involving their children
97 amicably through alternative dispute resolution. In order
98 to effectuate these policies, the court shall determine the
99 custody arrangement which will best assure both parents
100 participate in such decisions and have frequent, continuing
101 and meaningful contact with their children so long as it is
102 in the best interests of the child.

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

106 (1) Joint physical and joint legal custody to both
107 parents, which shall not be denied solely for the reason
108 that one parent opposes a joint physical and joint legal
109 custody award. The residence of one of the parents shall be

110 designated as the address of the child for mailing and
111 educational purposes;

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

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

118 (4) Sole custody to either parent; or

119 (5) Third-party custody or visitation:

120 (a) When the court finds that each parent is unfit,
121 unsuitable, or unable to be a custodian, or the welfare of
122 the child requires, and it is in the best interests of the
123 child, then custody, temporary custody or visitation may be
124 awarded **to** a person related by consanguinity or affinity to
125 the child. If no person related to the child by
126 consanguinity or affinity is willing to accept custody, then
127 the court may award custody to any other person or persons
128 deemed by the court to be suitable and able to provide an
129 adequate and stable environment for the child. Before the
130 court awards custody, temporary custody or visitation to a
131 third person under this subdivision, the court shall **[make**
132 **that person]** **notify the child's relatives, as identified in**
133 **subdivisions (1), (2), and (3) of subsection 3 of section**
134 **210.565, if their identities are known and their addresses**
135 **may reasonably be ascertained, and any persons with whom the**
136 **child has resided, within five years, as identified under**
137 **section 452.780, prior to the institution of the action for**
138 **child custody, that they may intervene and seek third party**
139 **custody, temporary custody, or visitation. No person shall**
140 **be granted third party custody, temporary custody, or**
141 **visitation who has not first been made** a party to the action;

142 (b) Under the provisions of this subsection, any
143 person may petition the court to intervene as a party in
144 interest at any time, **and the court shall allow such**
145 **intervention as a matter of right**, as provided by supreme
146 court rule;

147 (c) **As provided under subsection 4 of section 210.565,**
148 **priority and preference in the award of third party custody**
149 **shall be given to an intervening party in the order of**
150 **preference set forth in subsection 3 of section 210.565;**

151 (d) **No order denying third party contact with a child**
152 **shall be entered by the court against a third party who has**
153 **not been made a party to the action unless the court finds**
154 **that such third party may not be found and joined as a party.**

155 6. If the parties have not agreed to a custodial
156 arrangement, or the court determines such arrangement is not
157 in the best interest of the child, the court shall include a
158 written finding in the judgment or order based on the public
159 policy in subsection 4 of this section and each of the
160 factors listed in subdivisions (1) to (8) of subsection 2 of
161 this section detailing the specific relevant factors that
162 made a particular arrangement in the best interest of the
163 child. If a proposed custodial arrangement is rejected by
164 the court, the court shall include a written finding in the
165 judgment or order detailing the specific relevant factors
166 resulting in the rejection of such arrangement.

167 7. Upon a finding by the court that either parent has
168 refused to exchange information with the other parent, which
169 shall include but not be limited to information concerning
170 the health, education and welfare of the child, the court
171 shall order the parent to comply immediately and to pay the
172 prevailing party a sum equal to the prevailing party's cost
173 associated with obtaining the requested information, which

174 shall include but not be limited to reasonable attorney's
175 fees and court costs.

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

183 9. Any judgment providing for custody shall include a
184 specific written parenting plan setting forth the terms of
185 such parenting plan arrangements specified in subsection 8
186 of section 452.310. Such plan may be a parenting plan
187 submitted by the parties pursuant to section 452.310 or, in
188 the absence thereof, a plan determined by the court, but in
189 all cases, the custody plan approved and ordered by the
190 court shall be in the court's discretion and shall be in the
191 best interest of the child.

192 10. After August 28, 2016, every court order
193 establishing or modifying custody or visitation shall
194 include the following language: "In the event of
195 noncompliance with this order, the aggrieved party may file
196 a verified motion for contempt. If custody, visitation, or
197 third-party custody is denied or interfered with by a parent
198 or third party without good cause, the aggrieved person may
199 file a family access motion with the court stating the
200 specific facts that constitute a violation of the custody
201 provisions of the judgment of dissolution, legal separation,
202 or judgment of paternity. The circuit clerk will provide
203 the aggrieved party with an explanation of the procedures
204 for filing a family access motion and a simple form for use
205 in filing the family access motion. A family access motion

206 does not require the assistance of legal counsel to prepare
207 and file.".

208 11. No court shall adopt any local rule, form, or
209 practice requiring a standardized or default parenting plan
210 for interim, temporary, or permanent orders or judgments.
211 Notwithstanding any other provision to the contrary, a court
212 may enter an interim order in a proceeding under this
213 chapter, provided that the interim order shall not contain
214 any provisions about child custody or a parenting schedule
215 or plan without first providing the parties with notice and
216 a hearing, unless the parties otherwise agree.

217 12. Unless a parent has been denied custody rights
218 pursuant to this section or visitation rights under section
219 452.400, both parents shall have access to records and
220 information pertaining to a minor child including, but not
221 limited to, medical, dental, and school records. If the
222 parent without custody has been granted restricted or
223 supervised visitation because the court has found that the
224 parent with custody or any child has been the victim of
225 domestic violence, as defined in section 455.010, by the
226 parent without custody, the court may order that the reports
227 and records made available pursuant to this subsection not
228 include the address of the parent with custody or the
229 child. A court shall order that the reports and records
230 made available under this subsection not include the address
231 of the parent with custody if the parent with custody is a
232 participant in the address confidentiality program under
233 section 589.663. Unless a parent has been denied custody
234 rights pursuant to this section or visitation rights under
235 section 452.400, any judgment of dissolution or other
236 applicable court order shall specifically allow both parents
237 access to such records and reports.

238 13. Except as otherwise precluded by state or federal
239 law, if any individual, professional, public or private
240 institution or organization denies access or fails to
241 provide or disclose any and all records and information,
242 including, but not limited to, past and present dental,
243 medical and school records pertaining to a minor child, to
244 either parent upon the written request of such parent, the
245 court shall, upon its finding that the individual,
246 professional, public or private institution or organization
247 denied such request without good cause, order that party to
248 comply immediately with such request and to pay to the
249 prevailing party all costs incurred, including, but not
250 limited to, attorney's fees and court costs associated with
251 obtaining the requested information.

252 14. An award of joint custody does not preclude an
253 award of child support pursuant to section 452.340 and
254 applicable supreme court rules. The court shall consider
255 the factors contained in section 452.340 and applicable
256 supreme court rules in determining an amount reasonable or
257 necessary for the support of the child.

258 15. If the court finds that domestic violence or abuse
259 as defined in section 455.010 has occurred, the court shall
260 make specific findings of fact to show that the custody or
261 visitation arrangement ordered by the court best protects
262 the child and the parent or other family or household member
263 who is the victim of domestic violence, as defined in
264 section 455.010, and any other children for whom such parent
265 has custodial or visitation rights from any further harm.

 452.377. 1. For purposes of this section and section
2 452.375, "relocate" or "relocation" means a change in the
3 principal residence of a child for a period of ninety days
4 or more, but does not include a temporary absence from the

5 principal residence, **and shall include the permanent**
6 **transfer of custody of a child as provided in section**
7 **453.110.**

8 2. Notice of a proposed relocation of the residence of
9 the child, or any party entitled to custody or visitation of
10 the child, shall be given in writing by certified mail,
11 return receipt requested, to any party with custody or
12 visitation rights. Absent exigent circumstances as
13 determined by a court with jurisdiction, written notice
14 shall be provided at least sixty days in advance of the
15 proposed relocation. **A copy of the notice and a certificate**
16 **of service shall be filed with the court.** The notice of the
17 proposed relocation shall include the following information:

18 (1) The intended new residence, including the specific
19 address and mailing address, if known, and if not known, the
20 city;

21 (2) The home telephone number of the new residence, if
22 known;

23 (3) The date of the intended move or proposed
24 relocation;

25 (4) A brief statement of the specific reasons for the
26 proposed relocation of a child, if applicable;

27 (5) A proposal for a revised schedule of custody or
28 visitation with the child, if applicable; and

29 (6) The other party's right, if that party is a
30 parent, to file a motion, pursuant to this section, seeking
31 an order to prevent the relocation and an accompanying
32 affidavit setting forth the specific good-faith factual
33 basis for opposing the relocation within thirty days of
34 receipt of the notice.

35 3. **(1) In cases involving a proposed permanent**
36 **transfer of custody of a child to a third party under**

37 section 453.110, the legal custodian shall give notice of
38 the proposed change in residence or location of the child to
39 any noncustodial parent whose last known address is on
40 record with the court. Such notice shall be in writing and
41 shall be provided at least sixty days in advance of the
42 proposed transfer, absent exigent circumstances as
43 determined by the court. The notice shall not include the
44 actual address to which the child will be relocated, but
45 shall include information on the noncustodial parent's
46 right, under section 453.110, to intervene and seek custody
47 of the child. A copy of the notice and certificate of
48 service shall be filed with the court. A noncustodial
49 parent shall provide written notice of a change in his or
50 her address to the custodial parent and shall file such
51 notice with the court, along with a certificate of service.

52 (2) After August 28, 2022, every court order
53 establishing or modifying custody shall include the
54 addresses of the legal custodians and noncustodial parents
55 for notification purposes and shall advise the noncustodial
56 parent to file a notice of address change as described in
57 this subsection. If a party is a participant in the address
58 confidentiality program under section 589.663, such party
59 shall not be required to provide his or her actual address
60 to the other parties, but shall submit such information
61 under seal to the court for in camera review. Prior to
62 disclosure of this information, a court shall comply with
63 the provisions of section 589.664.

64 4. If a party seeking to relocate a child is a
65 participant in the address confidentiality program under
66 section 589.663, such party shall not be required to provide
67 the information in subdivision (1) of subsection 2 of this
68 section, but may be required to submit such information

69 under seal to the court for in camera review. Prior to
70 disclosure of this information, a court shall comply with
71 the provisions of section 589.664.

72 [4.] 5. A party required to give notice of a proposed
73 relocation pursuant to subsection 2 of this section has a
74 continuing duty to provide a change in or addition to the
75 information required by this section as soon as such
76 information becomes known.

77 [5.] 6. In exceptional circumstances where the court
78 makes a finding that the health or safety of any adult or
79 child would be unreasonably placed at risk by the disclosure
80 of the required identifying information concerning a
81 proposed relocation of the child, the court may order that:

82 (1) The specific residence address and telephone
83 number of the child, parent or person, and other identifying
84 information shall not be disclosed in the pleadings, notice,
85 other documents filed in the proceeding or the final order
86 except for an in camera disclosure;

87 (2) The notice requirements provided by this section
88 shall be waived to the extent necessary to protect the
89 health or safety of a child or any adult; or

90 (3) Any other remedial action the court considers
91 necessary to facilitate the legitimate needs of the parties
92 and the best interest of the child.

93 [6.] 7. The court shall consider a failure to provide
94 notice of a proposed relocation of a child as:

95 (1) A factor in determining whether custody and
96 visitation should be modified;

97 (2) A basis for ordering the return of the child if
98 the relocation occurs without notice; and

99 (3) Sufficient cause to order the party seeking to
100 relocate the child to pay reasonable expenses and attorneys
101 fees incurred by the party objecting to the relocation.

102 [7.] 8. If the parties agree to a revised schedule of
103 custody and visitation for the child, which includes a
104 parenting plan, they may submit the terms of such agreement
105 to the court with a written affidavit signed by all parties
106 with custody or visitation assenting to the terms of the
107 agreement, and the court may order the revised parenting
108 plan and applicable visitation schedule without a hearing.

109 [8.] 9. The residence of the child may be relocated
110 sixty days after providing notice, as required by this
111 section, unless a parent files a motion seeking an order to
112 prevent the relocation within thirty days after receipt of
113 such notice. Such motion shall be accompanied by an
114 affidavit setting forth the specific good-faith factual
115 basis supporting a prohibition of the relocation. The
116 person seeking relocation shall file a response to the
117 motion within fourteen days, unless extended by the court
118 for good cause, and include a counter-affidavit setting
119 forth the facts in support of the relocation as well as a
120 proposed revised parenting plan for the child.

121 [9.] 10. If relocation of the child is proposed, a
122 third party entitled by court order to legal custody of or
123 visitation with a child and who is not a parent may file a
124 cause of action to obtain a revised schedule of legal
125 custody or visitation, but shall not prevent a relocation,
126 **except as otherwise provided under this section and section**
127 **453.110.**

128 [10.] 11. The party seeking to relocate shall have the
129 burden of proving that the proposed relocation is made in
130 good faith and is in the best interest of the child.

131 [11.] 12. If relocation is permitted:

132 (1) The court shall order contact with the
133 nonrelocating party including custody or visitation and
134 telephone access sufficient to assure that the child has
135 frequent, continuing and meaningful contact with the
136 nonrelocating party unless the child's best interest
137 warrants otherwise; and

138 (2) The court shall specify how the transportation
139 costs will be allocated between the parties and adjust the
140 child support, as appropriate, considering the costs of
141 transportation.

142 [12.] 13. After August 28, 1998, every court order
143 establishing or modifying custody or visitation shall
144 include the following language:

145 "Absent exigent circumstances as determined by a
146 court with jurisdiction, you, as a party to this
147 action, are ordered to notify, in writing by
148 certified mail, return receipt requested, and at
149 least sixty days prior to the proposed relocation,
150 each party to this action of any proposed
151 relocation of the principal residence of the
152 child, including the following information:

- 153 (1) The intended new residence, including the
154 specific address and mailing address, if
155 known, and if not known, the city;
- 156 (2) The home telephone number of the new
157 residence, if known;
- 158 (3) The date of the intended move or proposed
159 relocation;
- 160 (4) A brief statement of the specific reasons for
161 the proposed relocation of the child;
- 162 (5) A proposal for a revised schedule of custody
163 or visitation with the child; and

164 (6) The other party's right, if that party is a
165 parent, to file a motion, pursuant to Section
166 452.377, RSMo, seeking an order to prevent the
167 relocation and an accompanying affidavit
168 setting forth the specific good-faith factual
169 basis for opposing the relocation within
170 thirty days of receipt of the notice.

171 Your obligation to provide this information to
172 each party continues as long as you or any other
173 party by virtue of this order is entitled to
174 custody of a child covered by this order. Your
175 failure to obey the order of this court regarding
176 the proposed relocation may result in further
177 litigation to enforce such order, including
178 contempt of court. In addition, your failure to
179 notify a party of a relocation of the child may be
180 considered in a proceeding to modify custody or
181 visitation with the child. Reasonable costs and
182 attorney fees may be assessed against you if you
183 fail to give the required notice."

184 [13.] 14. A participant in the address confidentiality
185 program under section 589.663 shall not be required to
186 provide a requesting party with the specific physical or
187 mailing address of the child's proposed relocation
188 destination, but in the event of an objection by a
189 requesting party, a participant may be required to submit
190 such information under seal to the court for in camera
191 review. Prior to disclosure of this information, a court
192 shall comply with the provisions of section 589.664.

193 [14.] 15. Violation of the provisions of this section
194 or a court order under this section may be deemed a change
195 of circumstance under section 452.410, allowing the court to
196 modify the prior custody decree. In addition, the court may
197 utilize any and all powers relating to contempt conferred on
198 it by law or rule of the Missouri supreme court.

199 [15.] 16. Any party who objects in good faith to the
200 relocation of a child's principal residence shall not be
201 ordered to pay the costs and attorney's fees of the party
202 seeking to relocate.

452.780. 1. Subject to local law providing for the
2 confidentiality of procedures, addresses, and other
3 identifying information, in a child custody proceeding each
4 party, in its first pleading or in an attached affidavit,
5 shall give information, if reasonably ascertainable, under
6 oath as to the child's present address, the places where the
7 child has lived during the last five years, and the names
8 and present addresses of the persons with whom the child has
9 lived during such period. The pleading or affidavit shall
10 state whether the party:

11 (1) Has participated, as a party or witness or in any
12 other capacity, in any other proceeding concerning the
13 custody of or visitation with the child and, if so, identify
14 the court, case number of the proceeding and date of the
15 child custody determination, if any;

16 (2) Knows of any proceeding that could affect the
17 current proceeding, including proceedings for enforcement
18 and proceedings relating to domestic violence, protective
19 orders, termination of parental rights, and adoptions and,
20 if so, identify the court and case number and nature of the
21 proceeding; and

22 (3) Knows the names and addresses of any person not a
23 party to the proceeding who has physical custody of the
24 child or claims rights of legal custody or physical custody
25 of, or visitation with, the child and, if so, the names and
26 addresses of such persons.

27 2. If the information required by subsection 1 of this
28 section is not furnished, the court, upon its own motion or

29 that of a party, may stay the proceeding until the
30 information is furnished.

31 3. If the declaration as to any of the items described
32 in subdivisions (1) to (3) of subsection 1 of this section
33 is in the affirmative, the declarant shall give additional
34 information under oath as required by the court. The court
35 may examine the parties under oath as to details of the
36 information furnished and other matters pertinent to the
37 court's jurisdiction and the disposition of the case.

38 4. Each party has a continuing duty to inform the
39 court of any proceeding in this or any other state that
40 could affect the current proceeding.

41 5. If a party alleges in an affidavit or a pleading
42 under oath that the health, safety, or liberty of a party or
43 child would be put at risk by the disclosure of identifying
44 information, that information shall be sealed and not
45 disclosed to the other party or the public unless the court
46 orders the disclosure to be made after a hearing in which
47 the court takes into consideration the health, safety, or
48 liberty of the party or child and determines that the
49 disclosure is in the interest of justice.

50 **6. Any person who knowingly, purposefully, or**
51 **intentionally fails to give accurate, full, and complete**
52 **information as required under this section is guilty of a**
53 **class A misdemeanor; and, upon discovery of said violation,**
54 **any public employee, officer, or agent having knowledge of**
55 **such violation shall transmit notice of the violation to the**
56 **prosecuting or circuit attorney of the county or city in**
57 **which the child resided at the time of transfer.**

453.110. 1. No person, agency, organization or
2 institution shall surrender custody of a minor child, or
3 transfer the custody of such a child to another, and no

4 person, agency, organization or institution shall take
5 possession or charge of a minor child so transferred,
6 without first having filed a petition before the circuit
7 court sitting as a juvenile court of the county where the
8 child may be, praying that such surrender or transfer may be
9 made, and having obtained such an order from such court
10 approving or ordering transfer of custody.

11 2. If any such surrender or transfer is made without
12 first obtaining such an order, such court shall, on petition
13 of any public official or interested person, agency,
14 organization or institution, order an investigation and
15 report as described in section 453.070 to be completed by
16 the children's division and shall make such order as to the
17 custody of such child in the best interest of such child.

18 3. **A noncustodial parent or third party interested in**
19 **securing custody of the child shall be granted the right to**
20 **intervene and to seek custody of the child, as provided**
21 **under section 453.375; provided, however, if the child is**
22 **the subject of a prior custody or guardianship order,**
23 **subject to modification, the court shall transfer the matter**
24 **to the court having jurisdiction over the custody of the**
25 **child.**

26 4. Any person who violates the terms of this section
27 is guilty of a class E felony; **and, upon discovery of such**
28 **violation, any public employee, officer, or agent having**
29 **knowledge of such violation shall transmit notice of**
30 **violation to the prosecuting or circuit attorney of the**
31 **county or city in which the child resided at the time of**
32 **transfer.**

33 [4.] 5. The investigation required by subsection 2 of
34 this section shall be initiated by the children's division
35 within forty-eight hours of the filing of the court order

36 requesting the investigation and report and shall be
37 completed within thirty days. The court shall order the
38 person having custody in violation of the provisions of this
39 section to pay the costs of the investigation and report.

40 [5.] 6. This section shall not be construed to
41 prohibit any parent, agency, organization or institution
42 from placing a child with another individual for care if the
43 right to supervise the care of the child and to resume
44 custody thereof is retained, or from placing a child with a
45 licensed foster home within the state through a child-
46 placing agency licensed by this state as part of a
47 preadoption placement.

48 [6.] 7. After the filing of a petition for the
49 transfer of custody for the purpose of adoption, the court
50 may enter an order of transfer of custody if the court finds
51 all of the following:

52 (1) A family assessment has been made as required in
53 section 453.070 and has been reviewed by the court;

54 (2) A recommendation has been made by the guardian ad
55 litem;

56 (3) A petition for transfer of custody for adoption
57 has been properly filed or an order terminating parental
58 rights has been properly filed;

59 (4) The financial affidavit has been filed as required
60 under section 453.075;

61 (5) The written report regarding the child who is the
62 subject of the petition containing the information has been
63 submitted as required by section 453.026;

64 (6) Compliance with the Indian Child Welfare Act, if
65 applicable; and

66 (7) Compliance with the Interstate Compact on the
67 Placement of Children pursuant to section 210.620.

68 [7.] 8. A hearing on the transfer of custody for the
69 purpose of adoption is not required if:

70 (1) The conditions set forth in subsection 6 of this
71 section are met;

72 (2) The parties agree and the court grants leave; and

73 (3) Parental rights have been terminated pursuant to
74 section 211.444 or 211.447.

475.060. 1. Any person may file a petition for the
2 appointment of himself or herself or some other qualified
3 person as guardian of a minor **who is not currently subject**
4 **to a prior custody order in a court of competent**
5 **jurisdiction.** Such petition **shall include the information**
6 **required under section 452.780 and** shall state:

7 (1) The name, age, domicile, actual place of residence
8 and post office address of the minor if known and if any of
9 these facts is unknown, the efforts made to ascertain that
10 fact;

11 (2) The estimated value of the minor's real and
12 personal property, and the location and value of any real
13 property owned by the minor outside of this state;

14 (3) If the minor has no domicile or place of residence
15 in this state, the county in which the property or major
16 part thereof of the minor is located;

17 (4) The name and address of the parents of the minor
18 and whether they are living or dead;

19 (5) The name and address of the spouse, and the names,
20 ages and addresses of all living children of the minor;

21 (6) The name and address of the person having custody
22 of the person of the minor or who claims to have custody of
23 the person of the minor;

24 (7) The name and address of any guardian of the person
25 or conservator of the estate of the minor appointed in this
26 or any other state;

27 (8) If appointment is sought for a natural person,
28 other than the public administrator, the names and addresses
29 of wards and disabled persons for whom such person is
30 already guardian or conservator;

31 (9) The name and address of the trustees and the
32 purpose of any trust of which the minor is a qualified
33 beneficiary;

34 (10) The reasons why the appointment of a guardian is
35 sought;

36 (11) A petition for the appointment of a guardian of a
37 minor may be filed for the sole and specific purpose of
38 school registration or medical insurance coverage. Such a
39 petition shall clearly set out this limited request and
40 shall not be combined with a petition for conservatorship;

41 (12) If the petitioner requests the appointment of co-
42 guardians, a statement of the reasons why such appointment
43 is sought and whether the petitioner requests that the co-
44 guardians, if appointed, may act independently or whether
45 they may act only together or only together with regard to
46 specified matters;

47 (13) That written consent has been obtained from any
48 person, including a public administrator, who is to be
49 appointed as a co-guardian; and

50 (14) Whether the petitioner knows of any other court
51 having jurisdiction over the minor and the name of the
52 court, if known.

53 2. Any person may file a petition for the appointment
54 of himself or herself or some other qualified person as

55 guardian or limited guardian of an incapacitated person.

56 Such petition shall state:

57 (1) If known, the name, age, domicile, actual place of
58 residence, and post office address of the alleged
59 incapacitated person, and for the period of three years
60 before the filing of the petition, the most recent
61 addresses, up to three, at which the alleged incapacitated
62 person lived prior to the most recent address, and if any of
63 these facts is unknown, the efforts made to ascertain that
64 fact. In the case of a petition filed by a public official
65 in his or her official capacity, the information required by
66 this subdivision need only be supplied to the extent it is
67 reasonably available to the petitioner;

68 (2) The estimated value of the alleged incapacitated
69 person's real and personal property, and the location and
70 value of any real property owned by the alleged
71 incapacitated person outside of this state;

72 (3) If the alleged incapacitated person has no
73 domicile or place of residence in this state, the county in
74 which the property or major part thereof of the alleged
75 incapacitated person is located;

76 (4) The name and address of the parents of the alleged
77 incapacitated person and whether they are living or dead;

78 (5) The name and address of the spouse, the names,
79 ages, and addresses of all living children of the alleged
80 incapacitated person, the names and addresses of the alleged
81 incapacitated person's closest known relatives, and the
82 names and relationship, if known, of any adults living with
83 the alleged incapacitated person; if no spouse, adult child,
84 or parent is listed, the names and addresses of the siblings
85 and children of deceased siblings of the alleged
86 incapacitated person; the name and address of any agent

87 appointed by the alleged incapacitated person in any durable
88 power of attorney, and of the presently acting trustees of
89 any trust of which the alleged incapacitated person is the
90 grantor or is a qualified beneficiary or is or was the
91 trustee or cotrustee and the purpose of the power of
92 attorney or trust;

93 (6) The name and address of the person having custody
94 of the person of the alleged incapacitated person;

95 (7) The name and address of any guardian of the person
96 or conservator of the estate of the alleged incapacitated
97 person appointed in this or any other state;

98 (8) If appointment is sought for a natural person,
99 other than the public administrator, the names and addresses
100 of wards and protectees for whom such person is already
101 guardian or conservator;

102 (9) The factual basis for the petitioner's conclusion
103 that the person for whom guardianship is sought is unable or
104 partially unable by reason of some specified physical,
105 mental, or cognitive condition to receive and evaluate
106 information or to communicate decisions to such an extent
107 that the person lacks capacity to meet essential
108 requirements for food, clothing, shelter, safety, or other
109 care such that serious physical injury, illness, or disease
110 is likely to occur;

111 (10) The reasons, incidents, and specific behaviors
112 demonstrating why the appointment of a guardian or limited
113 guardian is sought;

114 (11) If the petitioner suggests the appointment of co-
115 guardians, a statement of the reasons why such appointment
116 is sought and whether the petitioner suggests that the co-
117 guardians, if appointed, may act independently or whether

118 they may act only together or only together with regard to
119 specified matters; and

120 (12) Written consent has been obtained from any
121 person, including a public administrator, who is to be
122 appointed as a co-guardian.

123 3. If the person filing the petition seeks the
124 appointment of an emergency guardian, the petition shall
125 include the same requirements as provided in subsection 1 of
126 this section and shall request the appointment per the
127 requirements provided in subsection 15 of section 475.075.

128 **4. Notice of the application for guardianship shall be**
129 **given to the persons identified under section 452.780, each**
130 **of whom shall have the right to intervene and to seek**
131 **guardianship as provided herein. Failure to give notice to**
132 **such persons identified under section 452.780 shall be**
133 **grounds to set aside the appointment of the guardian.**

134 5. As provided under subsection 4 of section 210.565,
135 priority and preference in the award of guardianship to a
136 third party other than a parent of a child shall be given to
137 a party in the order of preference set forth in subsection 3
138 of section 210.565.

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