

FIRST REGULAR SESSION

# HOUSE BILL NO. 417

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RICHARDSON (Sponsor), COX, JONES (117), BARNES,  
ELMER, SMITH (150) AND LONG (Co-sponsors).

0918L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 452, RSMo, by adding thereto one new section relating to rights of persons with parental relationships.

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

Section A. Chapter 452, RSMo, is amended by adding thereto one new section, to be known as section 452.398, to read as follows:

**452.398. 1. It is the goal of this section to protect the emotional and psychological well-being of Missouri children by ensuring continuing interaction between a minor child and those persons with whom the minor child shares a substantial bond regardless of such person's biological connection to the minor child and regardless of whether both of the natural parents are fit.**

**2. As used in this section, the following terms shall mean:**

**(1) "Detrimental impact to the minor child", includes but is not limited to circumstances that may cause psychological, emotional, or physical harm to a minor child;**

**(2) "Natural parent", a biological or legal parent whose rights have not been terminated;**

**(3) "Ongoing relationship", a parent/child relationship with substantial continuity that has existed or did exist for at least one year;**

**(4) "Parent/child relationship", a relationship that exists or did exist between a minor child and a person other than a natural parent in which the person claiming such relationship has:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (a) Performed the duties of a parent and provided for the minor child's basic  
17 physical needs for food, clothing, shelter, and incidental necessities; or

18 (b) Provided the minor child with necessary care, education, structure, and  
19 discipline; or

20 (c) Developed and sustained a relationship with the minor child through  
21 interaction, companionship, interplay, and mutuality that fulfilled the minor child's  
22 psychological and emotional needs.

23 3. Any person who has a parent/child relationship with a minor child and who is  
24 not the minor child's natural parent may petition a court of competent jurisdiction under  
25 section 452.740 either by independent petition or by intervention in a pending action,  
26 including but not limited to an action pending in the juvenile division of a circuit court, to  
27 enter a judgment establishing custody and visitation rights to sustain and protect an  
28 ongoing relationship with the minor child.

29 4. The petitioner or intervenor shall establish by a preponderance of the evidence  
30 that an ongoing parent/child relationship exists or did exist. In determining whether such  
31 a relationship exists or did exist, the court shall consider all relevant factors, including:

32 (1) The age of the minor child;

33 (2) The minor child's mental and emotional maturity;

34 (3) Whether the minor child holds or did in the past hold a belief that the petitioner  
35 or intervenor is his or her parent;

36 (4) The duration and extent of the minor child's interaction with the petitioner or  
37 intervenor prior to the filing of the petitioner's or intervenor's action;

38 (5) Whether a natural parent fostered, condoned, or promoted the relationship  
39 between the minor child and the petitioner or intervenor;

40 (6) The extent to which the petitioner or intervenor has provided for the minor  
41 child's support, health, education, and welfare;

42 (7) The extent to which the petitioner or intervenor has performed the role of  
43 parent;

44 (8) The extent to which the petitioner or intervenor has fulfilled the minor child's  
45 psychological needs for a parent;

46 (9) Whether the petitioner or intervenor, the parent, and the minor child interacted  
47 with their community and third parties as a family.

48 5. In any proceeding initiated under this section, there is a rebuttable presumption  
49 that the natural parent acts in the minor child's best interests. In determining whether the  
50 presumption has been rebutted and whether to award custody or visitation rights over the  
51 objection of a natural parent, the court may consider factors including, but not limited to:

52           (1) Whether the petitioner or intervenor is or has been a primary caretaker of the  
53 minor child;

54           (2) The detrimental impact on the minor child if the relief is not granted;

55           (3) Whether the natural parent has fostered, condoned, or promoted the  
56 relationship between the minor child and the petitioner or intervenor;

57           (4) The duration and extent of the minor child's interaction with the petitioner or  
58 intervenor prior to the filing of the petitioner's or intervenor's action;

59           (5) The extent to which the petitioner or intervenor has provided for the minor  
60 child's support, health, education, and welfare;

61           (6) The extent to which the petitioner or intervenor has performed the role of  
62 parent;

63           (7) The extent to which the petitioner or intervenor has fulfilled the minor child's  
64 psychological needs for a parent;

65           (8) Whether the natural parent has unreasonably denied or limited contact between  
66 the minor child and the petitioner or intervenor;

67           (9) Whether the natural parent is unwilling or unable to adequately care for the  
68 minor child;

69           (10) The character, background, and parenting abilities of the parties.

70           **6. If the court determines that a parent/child relationship exists and the parental  
71 presumption in subsection 5 of this section has been rebutted by a preponderance of the  
72 evidence, the court may grant visitation rights to the person having a parent/child  
73 relationship if to do so is in the best interests of the child. The court may determine  
74 temporary custody or temporary visitation during the pendency of any proceeding pending  
75 entry of a final order.**

76           **7. If the court determines that a parent/child relationship exists and the parental  
77 presumption in subsection 5 of this section has been rebutted by clear and convincing  
78 evidence, the court may grant custody or visitation rights to the person having the  
79 parent/child relationship if to do so is in the best interests of the child. The court may  
80 order temporary visitation or contact rights under this subsection pending a final order.**

81           **8. If the court determines that custody or visitation between the minor child and  
82 the petitioner or intervenor is appropriate, the court may establish a parenting plan in  
83 accordance with subsection 8 of section 452.310 after consideration of the provisions of  
84 section 452.375.**

85           **9. Upon entry of a judgment under subsection 7 of this section, the court may  
86 award child support and assess financial responsibility for the minor child against any  
87 party under section 452.340, Missouri Rules of Civil Procedure 88.01, and Form 14.**

88           **10. The presumption described in subsection 5 of this section shall not exist in any**  
89 **action for modification of a judgment granted under this section.**

90           **11. The provisions of this section shall apply retroactively to any current or past**  
91 **parent/child relationship.**

92           **12. In a proceeding under this section, the court may assess reasonable attorney**  
93 **fees and costs in favor of any party.**