

SECOND REGULAR SESSION

HOUSE BILL NO. 1579

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOLAND (Sponsor) AND DAVIS (122) (Co-sponsor).

Read 1st time February 26, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2436L.011

AN ACT

To repeal sections 452.305, 452.310, and 452.372, RSMo, and to enact in lieu thereof four new sections relating to child support.

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

Section A. Sections 452.305, 452.310, and 452.372, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 452.305, 452.310, 452.339, and
3 452.372, to read as follows:

452.305. 1. The court shall enter a judgment of dissolution of marriage if:

2 (1) The court finds that one of the parties has been a resident of this state, or is a member
3 of the armed services who has been stationed in this state, for ninety days immediately preceding
4 the commencement of the proceeding and that thirty days have elapsed since the filing of the
5 petition; and

6 (2) The court finds that there remains no reasonable likelihood that the marriage can be
7 preserved and that therefore the marriage is irretrievably broken; and

8 (3) To the extent it has jurisdiction, the court has considered and made provision for
9 child custody, the support of each child, the maintenance of either spouse and the disposition of
10 property, **and the court has verified that any party obligated to pay child support for any**
11 **child of the marriage is current on all such child support payments or the obligee has**
12 **waived the obligor's duty to be current on all child support payments; except that such**
13 **waiver shall not relieve the obligor of any child support arrearage.**

14 2. The court shall enter a judgment of legal separation if:

15 (1) The court finds that one of the parties has been a resident of this state, or is a member

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

16 of the armed services who has been stationed in this state, for ninety days immediately preceding
17 the commencement of the proceeding and that thirty days have elapsed since the filing of the
18 petition; and

19 (2) The court finds that there remains a reasonable likelihood that the marriage can be
20 preserved and that therefore the marriage is not irretrievably broken; and

21 (3) To the extent it has jurisdiction, the court has considered and made provision for the
22 custody and the support of each child, the maintenance of either spouse and the disposition of
23 property.

24 3. Any judgment of dissolution of marriage or legal separation shall include the Social
25 Security numbers of the parties.

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a
2 motion to modify, a motion for a family access order and a motion for contempt shall be verified.
3 The petition in a proceeding for dissolution of marriage shall allege that the marriage is
4 irretrievably broken and that therefore there remains no reasonable likelihood that the marriage
5 can be preserved. The petition in a proceeding for legal separation shall allege that the marriage
6 is not irretrievably broken and that therefore there remains a reasonable likelihood that the
7 marriage can be preserved.

8 2. The petition in a proceeding for dissolution of marriage or legal separation shall set
9 forth:

10 (1) The residence of each party, including the county, and the length of residence of each
11 party in this state and in the county of residence;

12 (2) The date of the marriage and the place at which it is registered;

13 (3) The date on which the parties separated;

14 (4) The name, date of birth and address of each child, and the parent with whom each
15 child has primarily resided for the sixty days immediately preceding the filing of the petition for
16 dissolution of marriage or legal separation;

17 (5) Whether the wife is pregnant;

18 (6) The Social Security number of the petitioner, respondent and each child;

19 (7) Any arrangements as to the custody and support of the children and the maintenance
20 of each party; and

21 (8) The relief sought.

22 3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal
23 separation, each child shall immediately be subject to the jurisdiction of the court in which the
24 proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the
25 child is pending in juvenile court. Until permitted by order of the court, neither parent shall
26 remove any child from the jurisdiction of the court or from any parent with whom the child has

27 primarily resided for the sixty days immediately preceding the filing of a petition for dissolution
28 of marriage or legal separation.

29 4. The mere fact that one parent has actual possession of the child at the time of filing
30 shall not create a preference in favor of such parent in any judicial determination regarding
31 custody of the child.

32 5. The respondent shall be served in the manner provided by the rules of the supreme
33 court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a
34 verified answer within thirty days of the date of service which shall not only admit or deny the
35 allegations of the petition, but shall also set forth:

36 (1) The Social Security number of the petitioner, respondent and each child;

37 (2) Any arrangements as to the custody and support of the child and the maintenance of
38 each party; and

39 (3) The relief sought.

40 6. Previously existing defenses to divorce and legal separation, including but not limited
41 to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

42 7. **Except for cases in which the attorney general is a party**, the petitioner and
43 respondent shall submit a proposed parenting plan, either individually or jointly, **and their**
44 **income and expense statements and preliminary Form 14 documents** within thirty days after
45 service of process or the filing of the entry of appearance, whichever event first occurs of a
46 motion to modify or a petition involving custody or visitation issues. The proposed parenting
47 plan shall set forth the arrangements that the party believes to be in the best interest of the minor
48 children and shall include but not be limited to:

49 (1) A specific written schedule detailing the custody, visitation and residential time for
50 each child with each party including:

51 (a) Major holidays stating which holidays a party has each year;

52 (b) School holidays for school-age children;

53 (c) The child's birthday, Mother's Day and Father's Day;

54 (d) Weekday and weekend schedules and for school-age children how the winter, spring,
55 summer and other vacations from school will be spent;

56 (e) The times and places for transfer of the child between the parties in connection with
57 the residential schedule;

58 (f) A plan for sharing transportation duties associated with the residential schedule;

59 (g) Appropriate times for telephone access;

60 (h) Suggested procedures for notifying the other party when a party requests a temporary
61 variation from the residential schedule;

62 (i) Any suggested restrictions or limitations on access to a party and the reasons such

63 restrictions are requested;

64 (2) A specific written plan regarding legal custody which details how the
65 decision-making rights and responsibilities will be shared between the parties including the
66 following:

67 (a) Educational decisions and methods of communicating information from the school
68 to both parties;

69 (b) Medical, dental and health care decisions including how health care providers will
70 be selected and a method of communicating medical conditions of the child and how emergency
71 care will be handled;

72 (c) Extracurricular activities, including a method for determining which activities the
73 child will participate in when those activities involve time during which each party is the
74 custodian;

75 (d) Child care providers, including how such providers will be selected;

76 (e) Communication procedures including access to telephone numbers as appropriate;

77 (f) A dispute resolution procedure for those matters on which the parties disagree or in
78 interpreting the parenting plan;

79 (g) If a party suggests no shared decision-making, a statement of the reasons for such a
80 request;

81 (3) How the expenses of the child, including child care, educational and extraordinary
82 expenses as defined in the child support guidelines established by the supreme court, will be paid
83 including:

84 (a) The suggested amount of child support to be paid by each party;

85 (b) The party who will maintain or provide health insurance for the child and how the
86 medical, dental, vision, psychological and other health care expenses of the child not paid by
87 insurance will be paid by the parties;

88 (c) The payment of educational expenses, if any;

89 (d) The payment of extraordinary expenses of the child, if any;

90 (e) Child care expenses, if any;

91 (f) Transportation expenses, if any.

92 8. If the proposed parenting plans of the parties differ and the parties cannot resolve the
93 differences or if any party fails to file a proposed parenting plan, upon motion of either party and
94 an opportunity for the parties to be heard, the court shall enter a temporary order containing a
95 parenting plan setting forth the arrangements specified in subsection 7 of this section which will
96 remain in effect until further order of the court. The temporary [order] **orders** entered by the
97 court shall not create a preference for the court in its adjudication of final custody, child support
98 or visitation.

99 9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court
100 shall have in effect guidelines for a parenting plan form which may be used by the parties
101 pursuant to this section in any dissolution of marriage, legal separation or modification
102 proceeding involving issues of custody and visitation relating to the child.

**452.339. In any proceeding before a court where child support is established or
2 modified, except for cases in which the attorney general is a party:**

3 **(1) The court shall require both parties to submit an income and expense statement**
4 **with the submission of the required Form 14 child support documents for review by the**
5 **court; and**

6 **(2) The court may issue a temporary order of child support under section 452.310.**
7 **At the time of issuance of the temporary order of support under this subdivision and to**
8 **facilitate the enforcement of the child support order, each party shall verify his or her**
9 **current address and telephone number, the name of his or her current employer, and the**
10 **employer's address and telephone number; and**

11 **(3) The court shall hold an initial case management conference on the first available**
12 **date on the court's family law docket following sixty days after the date of service in the**
13 **case. Upon the court's own motion or the motion of a party, the court may hold subsequent**
14 **case management conferences as are deemed necessary and appropriate to bring the case**
15 **to an expeditious conclusion. At a case management conference, the court may, pursuant**
16 **to section 452.372, order the parties to participate in mediation, or attend court-approved**
17 **educational sessions to educate parents as to the possible detrimental effects of court**
18 **actions on children and how to avoid such negative effects.**

 452.372. 1. When a person files a petition for dissolution of marriage or legal separation
2 and the custody or visitation of a minor child is involved, the court shall order all parties to the
3 action to attend educational sessions pursuant to section 452.605. Parties to a modification
4 proceeding who previously have attended educational sessions pursuant to section 452.605 may
5 also be required to attend such educational sessions.

6 2. [In cases involving custody or visitation issues,] The court [may] **shall**, except for
7 good cause shown or as provided in subsection 3 of this section, order the parties to the action
8 to participate in an alternative dispute resolution program pursuant to supreme court rule to
9 resolve any issues in dispute or may set a hearing on the matter. As used in this section, "good
10 cause" includes, but is not limited to, uncontested custody or temporary physical custody cases,
11 or a finding of domestic violence or abuse as determined by a court with jurisdiction after all
12 parties have received notice and an opportunity to be heard, but does not mean the absence of
13 qualified mediators.

14 3. Any alternative dispute resolution program ordered by the court pursuant to this

15 section may be paid for by the parties in a proportion to be determined by the court, the cost of
16 which shall be reasonable and customary for the circuit in which the program is ordered[, and
17 shall:

18 (1) Not be binding on the parties;

19 (2) Not be ordered or used for contempt proceedings;

20 (3) Not be ordered or utilized for child support issues; and

21 (4) Not be used to modify a prior order of the court, except by agreement of the parties].

22 **Any court-ordered alternative dispute resolution shall consist of participation by the**
23 **parties in a minimum of two hours of mediation, unless waived by the court for good cause**
24 **shown. The court shall maintain a list of court-approved mediators that include the**
25 **mediator's training, qualifications, and other information deemed appropriate by the**
26 **court. Once a mediator is selected by mutual agreement of the parties or assigned if the**
27 **parties cannot agree, a mediation session shall be scheduled within thirty days of the**
28 **referral to mediation. If agreement is reached during mediation, a memorandum of**
29 **agreement will be drafted by the mediator and presented to the parties for submission.**
30 **Any understanding reached by the parties as a result of mediation shall not be binding on**
31 **the parties until it is reduced to writing, signed by the parties and their attorneys, if any,**
32 **and approved by the court. At any time after two hours of mediation, either party may**
33 **terminate mediation.**

34 4. Within one hundred twenty days after August 28, [1998] **2004**, the Missouri supreme
35 court shall have a rule in effect [allowing, but not] requiring[,] each circuit to establish an
36 alternative dispute resolution program for proceedings involving **dissolution of marriage,**
37 **including** issues of custody and temporary physical custody relating to the child.