

FIRST REGULAR SESSION

HOUSE BILL NO. 307

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUNNINGHAM.

0567L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

Section A. Sections 210.841 and 452.340, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.841 and 452.340, to read as follows:

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

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

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

(1) The duty of support;

(2) The custody and guardianship of the child;

(3) Visitation privileges with the child;

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

(5) Any matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

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

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.

17 5. There shall be a rebuttable presumption that the amount of support that would result
18 from the application of supreme court rule 88.01 is the correct amount of child support to be
19 awarded. A written finding or specific finding on the record that the application of supreme
20 court rule 88.01 would be unjust or inappropriate in a particular case, after considering all
21 relevant factors including the factors in subsection 6 of this section, shall be sufficient to rebut
22 the presumption in the case.

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

- 26 (1) The needs of the child;
- 27 (2) The standard of living and circumstances of the parents;
- 28 (3) The relative financial means of the parents;
- 29 (4) The earning ability of the parents;
- 30 (5) The need and capacity of the child for education, including higher education. **Either**
31 **party may request and the court may order that up to ten percent of any child support**
32 **payments ordered by the court under this section be diverted and dedicated to a savings**
33 **or educational account for the child as set forth in subsection 8 of section 452.340, RSMo;**
34 (6) The age of the child;
- 35 (7) The financial resources and earning capacity of the child;
- 36 (8) The responsibility of the parents for the support of other children;
- 37 (9) The value of the services contributed by the custodial parent; and
- 38 (10) The standard of living and circumstances of the family prior to the dissolution of
39 marriage of parents or during the period of cohabitation of the parents.

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

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

- 6 (1) The financial needs and resources of the child;
- 7 (2) The financial resources and needs of the parents;
- 8 (3) The standard of living the child would have enjoyed had the marriage not been
9 dissolved;
- 10 (4) The physical and emotional condition of the child, and the child's educational needs;

11 (5) The child's physical and legal custody arrangements, including the amount of time
12 the child spends with each parent and the reasonable expenses associated with the custody or
13 visitation arrangements; and

14 (6) The reasonable work-related child care expenses of each parent.

15 2. The obligation of the parent ordered to make support payments shall abate, in whole
16 or in part, for such periods of time in excess of thirty consecutive days that the other parent has
17 voluntarily relinquished physical custody of a child to the parent ordered to pay child support,
18 notwithstanding any periods of visitation or temporary physical and legal or physical or legal
19 custody pursuant to a judgment of dissolution or legal separation or any modification thereof.
20 In a IV-D case, the family support division may determine the amount of the abatement pursuant
21 to this subsection for any child support order and shall record the amount of abatement in the
22 automated child support system record established pursuant to chapter 454, RSMo. If the case
23 is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement
24 in the automated child support system record established in chapter 454, RSMo.

25 3. Unless the circumstances of the child manifestly dictate otherwise and the court
26 specifically so provides, the obligation of a parent to make child support payments shall
27 terminate when the child:

28 (1) Dies;

29 (2) Marries;

30 (3) Enters active duty in the military;

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

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

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

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

41 5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary
42 school program of instruction, the parental support obligation shall continue, if the child
43 continues to attend and progresses toward completion of said program, until the child completes
44 such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an
45 institution of vocational or higher education not later than October first following graduation
46 from a secondary school or completion of a graduation equivalence degree program and so long

47 as the child enrolls for and completes at least twelve hours of credit each semester, not including
48 the summer semester, at an institution of vocational or higher education and achieves grades
49 sufficient to reenroll at such institution, the parental support obligation shall continue until the
50 child completes his or her education, or until the child reaches the age of twenty-one, whichever
51 first occurs. To remain eligible for such continued parental support, at the beginning of each
52 semester the child shall submit to each parent a transcript or similar official document provided
53 by the institution of vocational or higher education which includes the courses the child is
54 enrolled in and has completed for each term, the grades and credits received for each such
55 course, and an official document from the institution listing the courses which the child is
56 enrolled in for the upcoming term and the number of credits for each such course. When
57 enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his
58 or her courseload in any one semester, payment of child support may be terminated and shall not
59 be eligible for reinstatement. Upon request for notification of the child's grades by the
60 noncustodial parent, the child shall produce the required documents to the noncustodial parent
61 within thirty days of receipt of grades from the education institution. If the child fails to produce
62 the required documents, payment of child support may terminate without the accrual of any child
63 support arrearage and shall not be eligible for reinstatement. If the circumstances of the child
64 manifestly dictate, the court may waive the October first deadline for enrollment required by this
65 subsection. If the child is enrolled in such an institution, the child or parent obligated to pay
66 support may petition the court to amend the order to direct the obligated parent to make the
67 payments directly to the child. As used in this section, an "institution of vocational education"
68 means any postsecondary training or schooling for which the student is assessed a fee and attends
69 classes regularly. "Higher education" means any community college, college, or university at
70 which the child attends classes regularly. A child who has been diagnosed with a developmental
71 disability, as defined in section 630.005, RSMo, or whose physical disability or diagnosed health
72 problem limits the child's ability to carry the number of credit hours prescribed in this subsection,
73 shall remain eligible for child support so long as such child is enrolled in and attending an
74 institution of vocational or higher education, and the child continues to meet the other
75 requirements of this subsection. A child who is employed at least fifteen hours per week during
76 the semester may take as few as nine credit hours per semester and remain eligible for child
77 support so long as all other requirements of this subsection are complied with.

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

82 7. The general assembly finds and declares that it is the public policy of this state that
83 frequent, continuing and meaningful contact with both parents after the parents have separated
84 or dissolved their marriage is in the best interest of the child except for cases where the court
85 specifically finds that such contact is not in the best interest of the child. In order to effectuate
86 this public policy, a court with jurisdiction shall enforce visitation, custody and child support
87 orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or
88 future obligation of support and may transfer the physical and legal or physical or legal custody
89 of one or more children if it finds that a parent has, without good cause, failed to provide
90 visitation or physical and legal or physical or legal custody to the other parent pursuant to the
91 terms of a judgment of dissolution, legal separation or modifications thereof. The court shall
92 also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court
93 costs incurred by the prevailing party.

94 8. **(1) Either parent may request and the court may order that up to ten percent**
95 **of any child support payments ordered by the court under this section be diverted and**
96 **dedicated to a savings or educational account for the child. If the court so orders, any**
97 **moneys contributed to such savings or educational account by the obligor parent and any**
98 **interest accrued thereon shall be credited towards any current or future educational**
99 **support obligations of the obligor parent for the child. Any such order of the court to**
100 **divert child support payments for educational support may include provisions for**
101 **distribution of any moneys remaining in such savings or educational account after the**
102 **obligation to provide educational support terminates.**

103 **(2) If any moneys in such savings or educational account remain after the**
104 **obligation to provide educational support for the child terminates, moneys in the account**
105 **shall be distributed as follows:**

106 **(a) In accordance with the child support order if such order includes a provision**
107 **for the distribution of any moneys remaining in such account; or**

108 **(b) To the obligor if the child support order does not include a provision for the**
109 **distribution of any moneys remaining in a savings or educational account.**

110 9. The Missouri supreme court shall have in effect a rule establishing guidelines by
111 which any award of child support shall be made in any judicial or administrative proceeding.
112 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a
113 computation of the support obligation. The guidelines shall address how the amount of child
114 support shall be calculated when an award of joint physical custody results in the child or
115 children spending substantially equal time with both parents. The Missouri supreme court shall
116 publish child support guidelines and specifically list and explain the relevant factors and
117 assumptions that were used to calculate the child support guidelines. Any rule made pursuant

118 to this subsection shall be reviewed by the promulgating body not less than once every four years
119 to ensure that its application results in the determination of appropriate child support award
120 amounts.

121 [9.] **10.** There shall be a rebuttable presumption, in any judicial or administrative
122 proceeding for the award of child support, that the amount of the award which would result from
123 the application of the guidelines established pursuant to subsection 8 of this section is the correct
124 amount of child support to be awarded. A written finding or specific finding on the record in a
125 judicial or administrative proceeding that the application of the guidelines would be unjust or
126 inappropriate in a particular case, after considering all relevant factors, including the factors set
127 out in subsection 1 of this section, is required if requested by a party and shall be sufficient to
128 rebut the presumption in the case. The written finding or specific finding on the record shall
129 detail the specific relevant factors that required a deviation from the application of the guidelines.

130 [10.] **11.** Pursuant to this or any other chapter, when a court determines the amount owed
131 by a parent for support provided to a child by another person, other than a parent, prior to the
132 date of filing of a petition requesting support, or when the director of the family support division
133 establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section
134 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection
135 8 of this section. The amount of child support resulting from the application of the guidelines
136 shall be applied retroactively for a period prior to the establishment of a support order and the
137 length of the period of retroactivity shall be left to the discretion of the court or director. There
138 shall be a rebuttable presumption that the amount resulting from application of the guidelines
139 under subsection [8] **9** of this section constitutes the amount owed by the parent for the period
140 prior to the date of the filing of the petition for support or the period for which state debt is being
141 established. In applying the guidelines to determine a retroactive support amount, when
142 information as to average monthly income is available, the court or director may use the average
143 monthly income of the noncustodial parent, as averaged over the period of retroactivity, in
144 determining the amount of presumed child support owed for the period of retroactivity. The
145 court or director may enter a different amount in a particular case upon finding, after
146 consideration of all relevant factors, including the factors set out in subsection 1 of this section,
147 that there is sufficient cause to rebut the presumed amount.

148 [11.] **12.** The obligation of a parent to make child support payments may be terminated
149 as follows:

150 (1) Provided that the child support order contains the child's date of birth, the obligation
151 shall be deemed terminated without further judicial or administrative process when the child
152 reaches age twenty-one if the child support order does not specifically require payment of child
153 support beyond age twenty-one for reasons provided by subsection 4 of this section;

154 (2) The obligation shall be deemed terminated without further judicial or administrative
155 process when the parent receiving child support furnishes a sworn statement or affidavit
156 notifying the obligor parent of the child's emancipation in accordance with the requirements of
157 subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the
158 court which entered the order establishing the child support obligation, or the division of child
159 support enforcement;

160 (3) The obligation shall be deemed terminated without further judicial or administrative
161 process when the parent paying child support files a sworn statement or affidavit with the court
162 which entered the order establishing the child support obligation, or the family support division,
163 stating that the child is emancipated and reciting the factual basis for such statement; which
164 statement or affidavit is served by the court or division on the child support obligee; and which
165 is either acknowledged and affirmed by the child support obligee in writing, or which is not
166 responded to in writing within thirty days of receipt by the child support obligee;

167 (4) The obligation shall be terminated as provided by this subdivision by the court which
168 entered the order establishing the child support obligation, or the family support division, when
169 the parent paying child support files a sworn statement or affidavit with the court which entered
170 the order establishing the child support obligation, or the family support division, stating that the
171 child is emancipated and reciting the factual basis for such statement; and which statement or
172 affidavit is served by the court or division on the child support obligee. If the obligee denies the
173 statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit
174 as a motion to modify the support obligation pursuant to section 452.370 or section 454.496,
175 RSMo, and shall proceed to hear and adjudicate such motion as provided by law; provided that
176 the court may require the payment of a deposit as security for court costs and any accrued court
177 costs, as provided by law, in relation to such motion to modify.

178 [12.] **13.** The court may enter a judgment terminating child support pursuant to
179 subdivisions (1) to (3) of subsection [11] **12** of this section without necessity of a court
180 appearance by either party. The clerk of the court shall mail a copy of a judgment terminating
181 child support entered pursuant to subsection [11] **12** of this section on both the obligor and
182 obligee parents. The supreme court may promulgate uniform forms for sworn statements and
183 affidavits to terminate orders of child support obligations for use pursuant to subsection [11] **12**
184 of this section and subsection 4 of section 452.370.

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