

SECOND REGULAR SESSION

HOUSE BILL NO. 2374

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (89).

5406L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 452.340, 454.475, 454.517, 454.557, and 454.1003, RSMo, and to enact in lieu thereof five new sections relating to child support.

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

Section A. Sections 452.340, 454.475, 454.517, 454.557, and 454.1003, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 452.340, 454.475,
3 454.517, 454.557, and 454.1003, to read as follows:

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

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 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. The Missouri supreme court shall have in effect a rule establishing guidelines by
95 which any award of child support shall be made in any judicial or administrative proceeding.
96 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a
97 computation of the support obligation. The guidelines shall address how the amount of child
98 support shall be calculated when an award of joint physical custody results in the child or
99 children spending substantially equal time with both parents. The Missouri supreme court shall
100 publish child support guidelines and specifically list and explain the relevant factors and
101 assumptions that were used to calculate the child support guidelines. Any rule made pursuant
102 to this subsection shall be reviewed by the promulgating body not less than once every four years
103 to ensure that its application results in the determination of appropriate child support award
104 amounts.

105 9. There shall be a rebuttable presumption, in any judicial or administrative proceeding
106 for the award of child support, that the amount of the award which would result from the
107 application of the guidelines established pursuant to subsection 8 of this section is the correct
108 amount of child support to be awarded. A written finding or specific finding on the record in a
109 judicial or administrative proceeding that the application of the guidelines would be unjust or
110 inappropriate in a particular case, after considering all relevant factors, including the factors set
111 out in subsection 1 of this section, is required if requested by a party and shall be sufficient to
112 rebut the presumption in the case. The written finding or specific finding on the record shall
113 detail the specific relevant factors that required a deviation from the application of the guidelines.

114 10. Pursuant to this or any other chapter, when a court determines the amount owed by
115 a parent for support provided to a child by another person, other than a parent, prior to the date
116 of filing of a petition requesting support, or when the director of the family support division
117 establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section
118 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection
119 8 of this section. The amount of child support resulting from the application of the guidelines
120 shall be applied retroactively for a period prior to the establishment of a support order and the
121 length of the period of retroactivity shall be left to the discretion of the court or director. There
122 shall be a rebuttable presumption that the amount resulting from application of the guidelines
123 under subsection 8 of this section constitutes the amount owed by the parent for the period prior
124 to the date of the filing of the petition for support or the period for which state debt is being

125 established. In applying the guidelines to determine a retroactive support amount, when
126 information as to average monthly income is available, the court or director may use the average
127 monthly income of the noncustodial parent, as averaged over the period of retroactivity, in
128 determining the amount of presumed child support owed for the period of retroactivity. The
129 court or director may enter a different amount in a particular case upon finding, after
130 consideration of all relevant factors, including the factors set out in subsection 1 of this section,
131 that there is sufficient cause to rebut the presumed amount.

132 11. The obligation of a parent to make child support payments may be terminated as
133 follows:

134 (1) Provided that the **state case registry** or child support order contains the child's date
135 of birth, the obligation shall be deemed terminated without further judicial or administrative
136 process when the child reaches age twenty-one if the child support order does not specifically
137 require payment of child support beyond age twenty-one for reasons provided by subsection 4
138 of this section;

139 (2) The obligation shall be deemed terminated without further judicial or administrative
140 process when the parent receiving child support furnishes a sworn statement or affidavit
141 notifying the obligor parent of the child's emancipation in accordance with the requirements of
142 subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the
143 court which entered the order establishing the child support obligation, or the **family support**
144 **division [of child support enforcement] for an order entered under section 454.470;**

145 (3) The obligation shall be deemed terminated without further judicial or administrative
146 process when the parent paying child support files a sworn statement or affidavit with the court
147 which entered the order establishing the child support obligation, or the family support division
148 **for an order entered under section 454.470**, stating that the child is emancipated and reciting
149 the factual basis for such statement; which statement or affidavit is served by the court or
150 division, **as applicable**, on the child support obligee; and which is either acknowledged and
151 affirmed by the child support obligee in writing, or which is not responded to in writing within
152 thirty days of receipt by the child support obligee;

153 (4) The obligation shall be terminated as provided by this subdivision by the court which
154 entered the order establishing the child support obligation, or the family support division **for an**
155 **order entered under section 454.470**, when the parent paying child support files a sworn
156 statement or affidavit with the court which entered the order establishing the child support
157 obligation, or the family support division, **as applicable**, stating that the child is emancipated
158 and reciting the factual basis for such statement; and which statement or affidavit is served by
159 the court or division, **as applicable**, on the child support obligee. If the obligee denies the
160 statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit

161 as a [motion to modify the support obligation pursuant to section 452.370 or section 454.496,
162 RSMo,] **request for hearing** and shall proceed to hear and adjudicate such [motion] **request for**
163 **hearing** as provided by law; provided that the court may require the payment of a deposit as
164 security for court costs and any accrued court costs, as provided by law, in relation to such
165 [motion to modify] **request for hearing. When the division receives a request for hearing,**
166 **the hearing shall be held in the manner provided by section 454.475.**

167 12. The court may enter a judgment terminating child support pursuant to subdivisions
168 (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party.
169 The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant
170 to subsection 11 of this section on both the obligor and obligee parents. The supreme court may
171 promulgate uniform forms for sworn statements and affidavits to terminate orders of child
172 support obligations for use pursuant to subsection 11 of this section and subsection 4 of section
173 452.370.

454.475. 1. Hearings provided for in this section shall be conducted pursuant to chapter
2 536, RSMo, by administrative hearing officers designated by the Missouri department of social
3 services. The hearing officer shall provide the parents, the person having custody of the child,
4 or other appropriate agencies or their attorneys with notice of any proceeding in which support
5 obligations may be established or modified. The department shall not be stayed from enforcing
6 and collecting upon the administrative order during the hearing process and during any appeal
7 to the courts of this state, unless specifically enjoined by court order.

8 2. If no factual issue has been raised by the application for hearing, or the issues raised
9 have been previously litigated or do not constitute a defense to the action, the director may enter
10 an order without an evidentiary hearing, which order shall be a final decision entitled to judicial
11 review as provided in sections 536.100 to 536.140, RSMo.

12 3. After full and fair hearing, the hearing officer shall make specific findings regarding
13 the liability and responsibility, if any, of the alleged responsible parent for the support of the
14 dependent child, and for repayment of accrued state debt or arrearages, and the costs of
15 collection, and shall enter an order consistent therewith. In making the determination of the
16 amount the parent shall contribute toward the future support of a dependent child, the hearing
17 officer shall [use the scale and formula for minimum support obligations established by the
18 department pursuant to section 454.480] **consider the factors set forth in section 452.340.**

19 4. If the person who requests the hearing fails to appear at the time and place set for the
20 hearing, upon a showing of proper notice to that parent, the hearing officer shall enter findings
21 and order in accordance with the provisions of the notice and finding of support responsibility
22 unless the hearing officer determines that no good cause therefor exists.

23 5. In contested cases, the findings and order of the hearing officer shall be the decision
24 of the director. Any parent or person having custody of the child adversely affected by such
25 decision may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo, by filing
26 a petition for review in the circuit court of proper venue within thirty days of mailing of the
27 decision. Copies of the decision or order of the hearing officer shall be mailed to any parent,
28 person having custody of the child and the division within fourteen days of issuance.

29 6. If a hearing has been requested, and upon request of a parent, a person having custody
30 of the child, the division or a IV-D agency, the director shall enter a temporary order requiring
31 the provision of child support pending the final decision or order pursuant to this section if there
32 is clear and convincing evidence establishing a presumption of paternity pursuant to section
33 210.822, RSMo. In determining the amount of child support, the director shall consider the
34 factors set forth in section 452.340, RSMo. The temporary order, effective upon filing pursuant
35 to section 454.490, is not subject to a hearing pursuant to this section. The temporary order may
36 be stayed by a court of competent jurisdiction only after a hearing and a finding by the court that
37 the order fails to comply with rule 88.01.

454.517. 1. The director, IV-D agency or the obligee may cause a lien for unpaid and
2 delinquent child or spousal support to be placed upon any workers' compensation benefits
3 payable to an obligor delinquent in child or spousal support payments.

4 2. No such lien shall be effective unless and until a written notice is filed with the
5 director of the division of workers' compensation. The notice shall contain the name and address
6 of the delinquent obligor, the Social Security number of the obligor, if known, the name of the
7 obligee, and the amount of delinquent child or spousal support.

8 3. Notice of lien shall not be filed unless the delinquent child or spousal support
9 obligation exceeds one hundred dollars.

10 4. Any person or persons, firm or firms, corporation or corporations, including an
11 insurance carrier, making any payment of workers' compensation benefits to such obligor or to
12 such obligor's attorneys, heirs or legal representative, after receipt of such notice, as defined in
13 subsection 5 of this section, shall be liable to the obligee or, if support has been assigned
14 pursuant to subsection 2 of section 208.040, RSMo, to the state or IV-D agency in an amount
15 equal to the lesser of the workers' compensation benefits paid or delinquent child or spousal
16 support. In such event, the lien may be enforced by a suit at law against any person or persons,
17 firm or firms, corporation or corporations making the workers' compensation benefit payment.

18 5. Upon the filing of a notice pursuant to this section, the director of the division of
19 workers' compensation shall mail to the obligor and to all attorneys and insurance carriers of
20 record, a copy of the notice. The obligor, attorneys and insurance carriers shall be deemed to
21 have received the notice within five days of the mailing of the notice by the director of the

22 division of workers' compensation. The lien described in this section shall attach to all workers'
23 compensation benefits which are thereafter payable.

24 **6. A notice issued by the IV-D agency of this state shall advise the obligor of the**
25 **procedures to contest the lien under section 454.475 on the grounds that such lien is**
26 **improper due to a mistake of fact by requesting a hearing within thirty days of the mailing**
27 **date of the notice. At such a hearing the certified copy of the court order and the sworn**
28 **or certified statement of arrearages shall constitute prima facie evidence that the director's**
29 **order is valid and enforceable. If a prima facie case is established, the obligor may only**
30 **assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means**
31 **an error in the amount of the overdue support or an error as to the identity of the obligor.**
32 **The obligor shall have the burden of proof on such issues.**

33 **7.** In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this
34 section the obligee or the obligor's attorney shall file notice of the lien with the lienholder or
35 payor. This notice shall have attached a certified copy of the court order with all modifications
36 and a sworn statement by the obligee or a certified statement from the court attesting to or
37 certifying the amount of arrearages.

454.557. 1. A current support obligation shall not be recorded in the records maintained
2 in the automated child support system in the following cases:

3 (1) In a IV-D case with a support order pursuant to section 454.465 or 454.470 when the
4 division determines that payments for current support are no longer due and should no longer be
5 made to the payment center. The division shall notify by first class mail the obligor and obligee
6 under the support orders that payments shall no longer be made to the payment center, and any
7 withholding of income shall be terminated unless it is subsequently determined by the division
8 or court having jurisdiction that payments will continue. The division's determination shall
9 terminate the division's support order, but shall not terminate any obligation of support
10 established by court order. The obligor and obligee may contest the decision of the division to
11 terminate the division's support order by requesting a hearing within thirty days of the mailing
12 of the notice provided pursuant to this section. The hearing shall comply with the provisions of
13 section 454.475;

14 (2) In [a IV-D case] **all cases** with a support order entered by a court when the court that
15 issued the support order terminates such order [and notifies the division]. The division shall also
16 cease enforcing the order if no past support is due; or

17 (3) In all cases when the [child is twenty-two years of age, unless a court orders support
18 to continue. The obligor or obligee may contest the decision of the division to terminate
19 accruing support orders by requesting a hearing within thirty days of the mailing of notice by the
20 division. The hearing shall comply with the provisions of section 454.475. The issue at the

21 hearing, if any, shall be limited to a mistake of fact as to the age of the child or the existence of
22 a court order requiring support after the age of twenty-two] **obligation of a parent to make**
23 **child support payments is deemed terminated under subdivisions (1) to (4) of subsection**
24 **11 of section 452.340.**

25 2. Nothing in this section shall affect or terminate the amount due for unpaid past
26 support.

454.1003. 1. A court or the director of the division of child support enforcement may
2 issue an order, or in the case of a business, professional or occupational license, only a court may
3 issue an order, suspending an obligor's license and ordering the obligor to refrain from engaging
4 in a licensed activity in the following cases:

5 (1) When the obligor is not making child support payments in accordance with a [court]
6 **support** order and owes an arrearage in an amount greater than or equal to three months support
7 payments or two thousand five hundred dollars, whichever is less, as of the date of service of a
8 notice of intent to suspend such license; or

9 (2) When the obligor or any other person, after receiving appropriate notice, fails to
10 comply with a subpoena of a court or the director concerning actions relating to the
11 establishment of paternity, or to the establishment, modification or enforcement of support
12 orders, or order of the director for genetic testing.

13 2. In any case but a IV-D case, upon the petition of an obligee alleging the existence of
14 an arrearage, a court with jurisdiction over the support order may issue a notice of intent to
15 suspend a license. In a IV-D case, the director, or a court at the request of the director, may issue
16 a notice of intent to suspend.

17 3. The notice of intent to suspend a license shall be served on the obligor personally or
18 by certified mail. If the proposed suspension of license is based on the obligor's support
19 arrearage, the notice shall state that the obligor's license shall be suspended sixty days after
20 service unless, within such time, the obligor:

21 (1) Pays the entire arrearage stated in the notice;

22 (2) Enters into and complies with a payment plan approved by the court or the division;

23 or

24 (3) Requests a hearing before the court or the director.

25 4. In a IV-D case, the notice shall advise the obligor that hearings are subject to the
26 contested case provisions of chapter 536, RSMo.

27 5. If the proposed suspension of license is based on the alleged failure to comply with
28 a subpoena relating to paternity or a child support proceeding, or order of the director for genetic
29 testing, the notice of intent to suspend shall inform the person that such person's license shall be
30 suspended sixty days after service, unless the person complies with the subpoena or order.

31 6. If the obligor fails to comply with the terms of repayment agreement, a court or the
32 division may issue a notice of intent to suspend the obligor's license.

33 7. In addition to the actions to suspend or withhold licenses pursuant to this chapter, a
34 court or the director of the division of child support enforcement may restrict such licenses in
35 accordance with the provisions of this chapter.

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