

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 371, Page 33, Section 443.723, Line 37,
2 by inserting after all of said section and line the following:

3
4 "452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

5 (1) "Coerce" means to force a person to act in a given manner or to compel by pressure or threat;

6 (2) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole physical
7 custody or any combination thereof;

8 [(2)] (3) "Joint legal custody" means that the parents share the decision-making rights,
9 responsibilities, and authority relating to the health, education and welfare of the child, and, unless
10 allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of
11 decision-making rights, responsibilities, and authority;

12 [(3)] (4) "Joint physical custody" means an order awarding each of the parents significant, but not
13 necessarily equal, periods of time during which a child resides with or is under the care and
14 supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way
15 as to assure the child of frequent, continuing and meaningful contact with both parents;

16 [(4)] (5) "Third-party custody" means a third party designated as a legal and physical custodian
17 pursuant to subdivision (5) of subsection 5 of this section.

18 2. The court shall determine custody in accordance with the best interests of the child. The court
19 shall consider all relevant factors including:

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

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

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

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

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

30 (6) The mental and physical health of all individuals involved, including any history of abuse of any
31 individuals involved. If the court finds that a pattern of domestic violence as defined in section
32 455.010 has occurred, and, if the court also finds that awarding custody to the abusive parent is in the
33 best interest of the child, then the court shall enter written findings of fact and conclusions of law.

34 Custody and visitation rights shall be ordered in a manner that best protects the child and any other
35 child or children for whom the parent has custodial or visitation rights, and the parent or other family
36 or household member who is the victim of domestic violence from any further harm;

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

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

4 3. (1) In any court proceedings relating to custody of a child, the court shall not award custody or
5 unsupervised visitation of a child to a parent if such parent or any person residing with such parent
6 has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

7 (a) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067,
8 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209,
9 566.212, or 566.215;

10 (b) A violation of section 568.020;

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

12 (d) A violation of section 568.065;

13 (e) A violation of section 568.080;

14 (f) A violation of section 568.090; or

15 (g) A violation of section 568.175.

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

21 4. The general assembly finds and declares that it is the public policy of this state that frequent,
22 continuing and meaningful contact with both parents after the parents have separated or dissolved
23 their marriage is in the best interest of the child, except for cases where the court specifically finds
24 that such contact is not in the best interest of the child, and that it is the public policy of this state to
25 encourage parents to participate in decisions affecting the health, education and welfare of their
26 children, and to resolve disputes involving their children amicably through alternative dispute
27 resolution. In order to effectuate these policies, the court shall determine the custody arrangement
28 which will best assure both parents participate in such decisions and have frequent, continuing and
29 meaningful contact with their children so long as it is in the best interests of the child.

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

32 (1) Joint physical and joint legal custody to both parents, which shall not be denied solely for the
33 reason that one parent opposes a joint physical and joint legal custody award. The residence of one of
34 the parents shall be designated as the address of the child for mailing and educational purposes;

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

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

38 (4) Sole custody to either parent; or

39 (5) Third-party custody or visitation:

40 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the
41 welfare of the child requires, and it is in the best interests of the child, then custody, temporary
42 custody or visitation may be awarded to any other person or persons deemed by the court to be
43 suitable and able to provide an adequate and stable environment for the child. Before the court
44 awards custody, temporary custody or visitation to a third person under this subdivision, the court
45 shall make that person a party to the action;

46 (b) Under the provisions of this subsection, any person may petition the court to intervene as a party
47 in interest at any time as provided by supreme court rule.

48 6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement

1 is not in the best interest of the child, the court shall include a written finding in the judgment or
2 order based on the public policy in subsection 4 of this section and each of the factors listed in
3 subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made
4 a particular arrangement in the best interest of the child. If a proposed custodial arrangement is
5 rejected by the court, the court shall include a written finding in the judgment or order detailing the
6 specific relevant factors resulting in the rejection of such arrangement.

7 7. Upon a finding by the court that either parent has refused to exchange information with the other
8 parent, which shall include but not be limited to information concerning the health, education and
9 welfare of the child, the court shall order the parent to comply immediately and to pay the prevailing
10 party a sum equal to the prevailing party's cost associated with obtaining the requested information,
11 which shall include but not be limited to reasonable attorney's fees and court costs.

12 8. As between the parents of a child, no preference may be given to either parent in the awarding of
13 custody because of that parent's age, sex, or financial status, nor because of the age or sex of the
14 child.

15 9. Any judgment providing for custody shall include a specific written parenting plan setting forth
16 the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such
17 plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence
18 thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by
19 the court shall be in the court's discretion and shall be in the best interest of the child.

20 10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under
21 section 452.400, both parents shall have access to records and information pertaining to a minor
22 child, including, but not limited to, medical, dental, and school records. If the parent without custody
23 has been granted restricted or supervised visitation because the court has found that the parent with
24 custody or any child has been the victim of domestic violence, as defined in section 455.010, by the
25 parent without custody, the court may order that the reports and records made available pursuant to
26 this subsection not include the address of the parent with custody or the child. Unless a parent has
27 been denied custody rights pursuant to this section or visitation rights under section 452.400, any
28 judgment of dissolution or other applicable court order shall specifically allow both parents access to
29 such records and reports.

30 11. Except as otherwise precluded by state or federal law, if any individual, professional, public or
31 private institution or organization denies access or fails to provide or disclose any and all records and
32 information, including, but not limited to, past and present dental, medical and school records
33 pertaining to a minor child, to either parent upon the written request of such parent, the court shall,
34 upon its finding that the individual, professional, public or private institution or organization denied
35 such request without good cause, order that party to comply immediately with such request and to
36 pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court
37 costs associated with obtaining the requested information.

38 12. An award of joint custody does not preclude an award of child support pursuant to section
39 452.340 and applicable supreme court rules. The court shall consider the factors contained in section
40 452.340 and applicable supreme court rules in determining an amount reasonable or necessary for
41 the support of the child.

42 13. If the court finds that domestic violence or abuse, as defined in section 455.010 has occurred, the
43 court shall make specific findings of fact to show that the custody or visitation arrangement ordered
44 by the court best protects the child and the parent or other family or household member who is the
45 victim of domestic violence, as defined in section 455.010, and any other children for whom such
46 parent has custodial or visitation rights from any further harm.

47 14. If the court finds that a parent of a child, while the child was unborn, attempted to coerce the
48 mother of the child to obtain an abortion, the court may deny custody to the parent."; and

1 Further amend said bill, Page 34, Section 452.400, Line 26, by inserting after all of said line the
2 following:

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4 "(c) The court may exercise its discretion in granting visitation to a parent not granted
5 custody if such parent, while the child was unborn, attempted to coerce the mother of the child to
6 obtain an abortion."; and

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8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.