

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for House Bill No. 2042,
2 Page 1, Line 1, by deleting all of said line and inserting in lieu thereof the following:

3
4 "AMEND House Committee Substitute for House Bill No. 2042, Page 2, Section 43.650,
5 Line 36, by inserting immediately after said section and line the following:

6
7 "210.117. 1. A child taken into the custody of the state shall not be reunited with a parent
8 or placed in a home in which the parent or any person residing in the home has been found guilty of
9 any of the following offenses when a child was the victim:

10 (1) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061, 566.062,
11 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.100, 566.101, 566.111, 566.151,
12 566.203, 566.206, 566.209, 566.210, 566.211, or 566.215;

13 (2) A violation of section 568.020;

14 (3) Abuse of a child under section 568.060 when such abuse is sexual in nature;

15 (4) A violation of section 568.065;

16 (5) A violation of section 573.200;

17 (6) A violation of section 573.205; or

18 (7) A violation of section 568.175;

19 (8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to
20 August 28, 2013; or

21 (9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior to
22 January 1, 2017.

23 2. For all other violations of offenses in chapters 566 and 568 not specifically listed in
24 subsection 1 of this section or for a violation of an offense committed in another state when a child
25 is the victim that would be a violation of chapter 566 or 568, if committed in Missouri, the division
26 may exercise its discretion regarding the placement of a child taken into the custody of the state in
27 which a parent or any person residing in the home has been found guilty of any such offense.

28 3. In any case where the children's division determines based on a substantiated report of
29 child abuse that a child has abused another child, the abusing child shall be prohibited from
30 returning to or residing in any residence, facility, or school within one thousand feet of the residence
31 of the abused child or any child care facility or school that the abused child attends, unless and until
32 a court of competent jurisdiction determines that the alleged abuse did not occur or the abused child
33 reaches the age of eighteen, whichever earlier occurs. The provisions of this subsection shall not

Action Taken _____ Date _____

1 apply when the abusing child and the abused child are siblings or children living in the same home.
 2 211.038. 1. A child under the jurisdiction of the juvenile court shall not be reunited with a
 3 parent or placed in a home in which the parent or any person residing in the home has been found
 4 guilty of any of the following offenses when a child was the victim:

5 (1) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061, 566.062,
 6 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.100, 566.101, 566.111, 566.151,
 7 566.203, 566.206, 566.209, 566.210, 566.211, or 566.215;

8 (2) A violation of section 568.020;

9 (3) Abuse of a child under section 568.060 when such abuse is sexual in nature;

10 (4) A violation of section 568.065;

11 (5) A violation of section 573.200;

12 (6) A violation of section 573.205; or

13 (7) A violation of section 568.175;

14 (8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to
 15 August 28, 2013; or

16 (9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior to
 17 January 1, 2017.

18 2. For all other violations of offenses in chapters 566 and 568 not specifically listed in
 19 subsection 1 of this section or for a violation of an offense committed in another state when a child
 20 is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the juvenile
 21 court may exercise its discretion regarding the placement of a child under the jurisdiction of the
 22 juvenile court in a home in which a parent or any person residing in the home has been found guilty
 23 of, or pled guilty to, any such offense.

24 3. If the juvenile court determines that a child has abused another child, such abusing child
 25 shall be prohibited from returning to or residing in any residence located within one thousand feet of
 26 the residence of the abused child, or any child care facility or school that the abused child attends,
 27 until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not
 28 apply where the alleged abuse occurred between siblings or children living in the same home.

29 452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

30 (1) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole
 31 physical custody or any combination thereof;

32 (2) "Joint legal custody" means that the parents share the decision-making rights,
 33 responsibilities, and authority relating to the health, education and welfare of the child, and, unless
 34 allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of
 35 decision-making rights, responsibilities, and authority;

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

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

42 2. The court shall determine custody in accordance with the best interests of the child.
 43 When the parties have not reached an agreement on all issues related to custody, the court shall
 44 consider all relevant factors and enter written findings of fact and conclusions of law, including, but
 45 not limited to, the following:

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

48 (2) The needs of the child for a frequent, continuing and meaningful relationship with both

1 parents and the ability and willingness of parents to actively perform their functions as mother and
2 father for the needs of the child;

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

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

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

8 (6) The mental and physical health of all individuals involved, including any history of
9 abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined
10 in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive
11 parent is in the best interest of the child, then the court shall enter written findings of fact and
12 conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the
13 child and any other child or children for whom the parent has custodial or visitation rights, and the
14 parent or other family or household member who is the victim of domestic violence from any
15 further harm;

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

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

20 3. (1) In any court proceedings relating to custody of a child, the court shall not award
21 custody or unsupervised visitation of a child to a parent if such parent or any person residing with
22 such parent has been found guilty of, or pled guilty to, any of the following offenses when a child
23 was the victim:

24 (a) A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062, 566.064,
25 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,
26 566.209, 566.210, 566.211, or 566.215;

27 (b) A violation of section 568.020;

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

29 (d) A violation of section 568.065;

30 (e) A violation of section 573.200;

31 (f) A violation of section 573.205; or

32 (g) A violation of section 568.175.

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

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

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

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

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

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

10 (4) Sole custody to either parent; or

11 (5) Third-party custody or visitation:

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

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

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

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

33 8. As between the parents of a child, no preference may be given to either parent in the
34 awarding of custody because of that parent's age, sex, or financial status, nor because of the age or
35 sex of the child. The court shall not presume that a parent, solely because of his or her sex, is more
36 qualified than the other parent to act as a joint or sole legal or physical custodian for the child.

37 9. Any judgment providing for custody shall include a specific written parenting plan
38 setting forth the terms of such parenting plan arrangements specified in subsection 8 of section
39 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310
40 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved
41 and ordered by the court shall be in the court's discretion and shall be in the best interest of the
42 child.

43 10. After August 28, 2016, every court order establishing or modifying custody or visitation
44 shall include the following language: "In the event of noncompliance with this order, the aggrieved
45 party may file a verified motion for contempt. If custody, visitation, or third-party custody is denied
46 or interfered with by a parent or third party without good cause, the aggrieved person may file a
47 family access motion with the court stating the specific facts that constitute a violation of the
48 custody provisions of the judgment of dissolution, legal separation, or judgment of paternity. The

1 circuit clerk will provide the aggrieved party with an explanation of the procedures for filing a
2 family access motion and a simple form for use in filing the family access motion. A family access
3 motion does not require the assistance of legal counsel to prepare and file.”.

4 11. No court shall adopt any local rule, form, or practice requiring a standardized or default
5 parenting plan for interim, temporary, or permanent orders or judgments. Notwithstanding any
6 other provision of law to the contrary, a court may enter an interim order in a proceeding under this
7 chapter, provided that the interim order shall not contain any provisions about child custody or a
8 parenting schedule or plan without first providing the parties with notice and a hearing, unless the
9 parties otherwise agree.

10 12. Unless a parent has been denied custody rights pursuant to this section or visitation
11 rights under section 452.400, both parents shall have access to records and information pertaining to
12 a minor child including, but not limited to, medical, dental, and school records. If the parent
13 without custody has been granted restricted or supervised visitation because the court has found that
14 the parent with custody or any child has been the victim of domestic violence, as defined in section
15 455.010, by the parent without custody, the court may order that the reports and records made
16 available pursuant to this subsection not include the address of the parent with custody or the child.
17 Unless a parent has been denied custody rights pursuant to this section or visitation rights under
18 section 452.400, any judgment of dissolution or other applicable court order shall specifically allow
19 both parents access to such records and reports.

20 13. Except as otherwise precluded by state or federal law, if any individual, professional,
21 public or private institution or organization denies access or fails to provide or disclose any and all
22 records and information, including, but not limited to, past and present dental, medical and school
23 records pertaining to a minor child, to either parent upon the written request of such parent, the
24 court shall, upon its finding that the individual, professional, public or private institution or
25 organization denied such request without good cause, order that party to comply immediately with
26 such request and to pay to the prevailing party all costs incurred, including, but not limited to,
27 attorney’s fees and court costs associated with obtaining the requested information.

28 14. An award of joint custody does not preclude an award of child support pursuant to
29 section 452.340 and applicable supreme court rules. The court shall consider the factors contained
30 in section 452.340 and applicable supreme court rules in determining an amount reasonable or
31 necessary for the support of the child.

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

37 452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable visitation
38 rights unless the court finds, after a hearing, that visitation would endanger the child’s physical
39 health or impair his or her emotional development. The court shall enter an order specifically
40 detailing the visitation rights of the parent without physical custody rights to the child and any other
41 children for whom such parent has custodial or visitation rights. In determining the granting of
42 visitation rights, the court shall consider evidence of domestic violence. If the court finds that
43 domestic violence has occurred, the court may find that granting visitation to the abusive party is in
44 the best interests of the child.

45 (2) (a) The court shall not grant visitation to the parent not granted custody if such parent
46 or any person residing with such parent has been found guilty of or pled guilty to any of the
47 following offenses when a child was the victim:

48 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062, 566.064,

1 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,
2 566.209, 566.210, 566.211, or 566.215;

3 b. A violation of section 568.020;

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

5 d. A violation of section 568.065;

6 e. A violation of section 573.200;

7 f. A violation of section 573.205; or

8 g. A violation of section 568.175.

9 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed in
10 paragraph (a) of this subdivision or for a violation of an offense committed in another state when a
11 child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the
12 court may exercise its discretion in granting visitation to a parent not granted custody if such parent
13 or any person residing with such parent has been found guilty of, or pled guilty to, any such offense.

14 (3) The court shall consider the parent's history of inflicting, or tendency to inflict, physical
15 harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons
16 and shall grant visitation in a manner that best protects the child and the parent or other family or
17 household member who is the victim of domestic violence, and any other children for whom the
18 parent has custodial or visitation rights from any further harm.

19 (4) The court, if requested by a party, shall make specific findings of fact to show that the
20 visitation arrangements made by the court best protect the child or the parent or other family or
21 household member who is the victim of domestic violence, or any other child for whom the parent
22 has custodial or visitation rights from any further harm.

23 2. (1) The court may modify an order granting or denying visitation rights whenever
24 modification would serve the best interests of the child, but the court shall not restrict a parent's
25 visitation rights unless it finds that the visitation would endanger the child's physical health or
26 impair his or her emotional development.

27 (2) (a) In any proceeding modifying visitation rights, the court shall not grant unsupervised
28 visitation to a parent if the parent or any person residing with such parent has been found guilty of
29 or pled guilty to any of the following offenses when a child was the victim:

30 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062, 566.064,
31 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,
32 566.209, 566.210, 566.211, or 566.215;

33 b. A violation of section 568.020;

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

35 d. A violation of section 568.065;

36 e. A violation of section 573.200;

37 f. A violation of section 573.205; or

38 g. A violation of section 568.175.

39 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed in
40 paragraph (a) of this subdivision or for a violation of an offense committed in another state when a
41 child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the
42 division may exercise its discretion regarding the placement of a child taken into the custody of the
43 state in which a parent or any person residing in the home has been found guilty of, or pled guilty
44 to, any such offense.

45 (3) When a court restricts a parent's visitation rights or when a court orders supervised
46 visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and
47 rehabilitation shall be made to the court before unsupervised visitation may be ordered.

1 “Supervised visitation”, as used in this section, is visitation which takes place in the presence of a
2 responsible adult appointed by the court for the protection of the child.

3 3. The court shall mandate compliance with its order by all parties to the action, including
4 parents, children and third parties. In the event of noncompliance, the aggrieved person may file a
5 verified motion for contempt. If custody, visitation or third-party custody is denied or interfered
6 with by a parent or third party without good cause, the aggrieved person may file a family access
7 motion with the court stating the specific facts which constitute a violation of the judgment of
8 dissolution, legal separation or judgment of paternity. The state courts administrator shall develop a
9 simple form for pro se motions to the aggrieved person, which shall be provided to the person by
10 the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties
11 the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall
12 be conspicuously posted in the clerk’s offices. The location of the office where the family access
13 motion may be filed shall be conspicuously posted in the court building. The performance of duties
14 described in this section shall not constitute the practice of law as defined in section 484.010. Such
15 form for pro se motions shall not require the assistance of legal counsel to prepare and file. The
16 cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action
17 in the circuit court.

18 4. Within five court days after the filing of the family access motion pursuant to subsection
19 3 of this section, the clerk of the court shall issue a summons pursuant to applicable state law, and
20 applicable local or supreme court rules. A copy of the motion shall be personally served upon the
21 respondent by personal process server as provided by law or by any sheriff. Such service shall be
22 served at the earliest time and shall take priority over service in other civil actions, except those of
23 an emergency nature or those filed pursuant to chapter 455. The motion shall contain the following
24 statement in boldface type:

25 **"PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO**
26 **THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO**
27 **RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:**

28 (1) **AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION**
29 **OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY**
30 **NOT LESS THAN THE PERIOD OF TIME DENIED;**

31 (2) **PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE**
32 **VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A**
33 **CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;**

34 (3) **ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST**
35 **THE VIOLATOR;**

36 (4) **REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE**
37 **FUTURE COMPLIANCE WITH THE COURT'S ORDERS;**

38 (5) **ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO**
39 **REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY**
40 **AND THE CHILD; AND**

41 (6) **A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE**
42 **EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED**
43 **BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION**
44 **OR THIRD-PARTY CUSTODY."**

45 5. If an alternative dispute resolution program is available pursuant to section 452.372, the
46 clerk shall also provide information to all parties on the availability of any such services, and within
47 fourteen days of the date of service, the court may schedule alternative dispute resolution.

48 6. Upon a finding by the court pursuant to a motion for a family access order or a motion

1 for contempt that its order for custody, visitation or third-party custody has not been complied with,
2 without good cause, the court shall order a remedy, which may include, but not be limited to:

3 (1) A compensatory period of visitation, custody or third-party custody at a time convenient
4 for the aggrieved party not less than the period of time denied;

5 (2) Participation by the violator in counseling to educate the violator about the importance
6 of providing the child with a continuing and meaningful relationship with both parents;

7 (3) Assessment of a fine of up to five hundred dollars against the violator payable to the
8 aggrieved party;

9 (4) Requiring the violator to post bond or security to ensure future compliance with the
10 court's access orders; and

11 (5) Ordering the violator to pay the cost of counseling to reestablish the parent-child
12 relationship between the aggrieved party and the child.

13 7. The court shall consider, in a proceeding to enforce or modify a permanent custody or
14 visitation order or judgment, a party's violation, without good cause, of a provision of the parenting
15 plan, for the purpose of determining that party's ability and willingness to allow the child frequent
16 and meaningful contact with the other party.

17 8. The reasonable expenses incurred as a result of denial or interference with custody or
18 visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or
19 third-party custody, shall be assessed, if requested and for good cause, against the parent or party
20 who unreasonably denies or interferes with visitation, custody or third-party custody. In addition,
21 the court may utilize any and all powers relating to contempt conferred on it by law or rule of the
22 Missouri supreme court.

23 9. Final disposition of a motion for a family access order filed pursuant to this section shall
24 take place not more than sixty days after the service of such motion, unless waived by the parties or
25 determined to be in the best interest of the child. Final disposition shall not include appellate
26 review.

27 10. Motions filed pursuant to this section shall not be deemed an independent civil action
28 from the original action pursuant to which the judgment or order sought to be enforced was
29 entered."; and

30 Further amend said bill, Page 28, Section 589.414, Line 27,"; and

31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.
33
34

35
36 THIS AMENDMENT AMENDS 4083H03.10H.