

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for House Bill No. 229, Page 2, Section 452.375, Line 20, by  
2 inserting after the word "custody." the following:

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4 "If a parent does not exercise his or her periods of custody or visitation as decreed, without  
5 prior written consent and for a period exceeding sixty consecutive days, the aggrieved parent may  
6 file a family support motion. A family support motion creates a rebuttable presumption that an  
7 award of child support shall be reconsidered by the court."; and  
8

9 Further amend said bill and section, Page 6, Line 164, by inserting immediately after said section  
10 and line the following:

11  
12 "452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable  
13 visitation rights unless the court finds, after a hearing, that visitation would endanger the child's  
14 physical health or impair his or her emotional development. The court shall enter an order  
15 specifically detailing the visitation rights of the parent without physical custody rights to the child  
16 and any other children for whom such parent has custodial or visitation rights. In determining the  
17 granting of visitation rights, the court shall consider evidence of domestic violence. If the court  
18 finds that domestic violence has occurred, the court may find that granting visitation to the abusive  
19 party is in the best interests of the child.

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

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

26 b. A violation of section 568.020;

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

28 d. A violation of section 568.065;

29 e. A violation of section 573.200;

30 f. A violation of section 573.205; or

31 g. A violation of section 568.175.

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

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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

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

10 2. (1) The court may modify an order granting or denying visitation rights whenever  
11 modification would serve the best interests of the child, but the court shall not restrict a parent's  
12 visitation rights unless it finds that the visitation would endanger the child's physical health or  
13 impair his or her emotional development.

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

17 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062, 566.064,  
18 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,  
19 566.209, 566.211, or 566.215;

20 b. A violation of section 568.020;

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

22 d. A violation of section 568.065;

23 e. A violation of section 573.200;

24 f. A violation of section 573.205; or

25 g. A violation of section 568.175.

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

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

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36 "Supervised visitation", as used in this section, is visitation which takes place in the presence of a  
37 responsible adult appointed by the court for the protection of the child.

38 3. The court shall mandate compliance with its order by all parties to the action, including  
39 parents, children and third parties. In the event of noncompliance, the aggrieved person may file a  
40 verified motion for contempt. If custody, visitation or third-party custody is denied or interfered  
41 with by a parent or third party without good cause, the aggrieved person may file a family access  
42 motion with the court stating the specific facts which constitute a violation of the judgment of  
43 dissolution, legal separation or judgment of paternity. The state courts administrator shall develop a  
44 simple form for pro se motions to the aggrieved person, which shall be provided to the person by the  
45 circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the  
46 procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be  
47 conspicuously posted in the clerk's offices. The location of the office where the family access  
48 motion may be filed shall be conspicuously posted in the court building. The performance of duties  
49 described in this section shall not constitute the practice of law as defined in section 484.010. Such

form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action in the circuit court.

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

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

(1) AN ORDER ~~[FOR]~~ MODIFYING CUSTODY OR AWARDING A COMPENSATORY PERIOD OF CUSTODY, VISITATION, OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

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

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

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

(5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP ~~[BETWEEN THE AGGRIEVED PARTY AND]~~ WITH THE CHILD; [AND]

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

(7) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING LOST WAGES, COSTS FOR CHILD CARE, ATTORNEY FEES, AND COURT COSTS, ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE VIOLATOR'S FAILURE TO EXERCISE PERIODS OF CUSTODY OR VISITATION AS DECREED, WITHOUT PRIOR WRITTEN CONSENT AND FOR A PERIOD EXCEEDING SIXTY CONSECUTIVE DAYS; AND

(8) AN ORDER MODIFYING CHILD SUPPORT."

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

6. Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited to:

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

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

(3) Assessment of a fine of up to five hundred dollars against the violator payable to the

1 aggrieved party;

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

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

6 7. The court shall consider, in a proceeding to enforce or modify a permanent custody or  
7 visitation order or judgment, a party's violation, without good cause, of a provision of the parenting  
8 plan, for the purpose of determining that party's ability and willingness to allow the child frequent  
9 and meaningful contact with ~~[the other party]~~ both parents.

10 8. ~~[The reasonable expenses incurred as a result of denial or interference with custody or~~  
11 ~~visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or~~  
12 ~~third-party custody, shall be assessed, if requested and for good cause, against the parent or party~~  
13 ~~who unreasonably denies or interferes with visitation, custody or third-party custody. In addition,~~  
14 ~~the court may utilize any and all powers relating to contempt conferred on it by law or rule of the~~  
15 ~~Missouri supreme court.]~~ The reasonable expenses, including lost wages, costs of child care,  
16 attorney's fees, and costs of a proceeding to enforce visitation rights, custody, third party custody or  
17 to modify child support under a family support motion or order, shall be assessed, if requested and  
18 for good cause, against a parent or party who:

19 (1) Unreasonably denies or interferes with visitation, custody or third-party custody; or

20 (2) Fails to exercise his or her periods of custody or visitation as decreed, without prior  
21 written consent and for a period exceeding sixty consecutive days.

22  
23 In addition, the court may utilize any and all powers relating to contempt conferred on it by law or  
24 rule of the Missouri supreme court.

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

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

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