

FIRST REGULAR SESSION

HOUSE BILL NO. 787

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TERRY.

1745H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 452.340, 452.375, and 452.400, RSMo, and to enact in lieu thereof three new sections relating to the custody and support of children.

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

Section A. Sections 452.340, 452.375, and 452.400, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 452.340, 452.375, and 452.400, to read as follows:

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

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole 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. If the case is not a
23 IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the
24 automated child support system record established in chapter 454.

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~~ **twenty-two**, whichever first occurs. If the child is
45 enrolled in an institution of vocational or higher education not later than October first following
46 graduation from a secondary school or completion of a graduation equivalence degree program
47 and so long as the child enrolls for and completes at least twelve hours of credit each semester,
48 not including the summer semester, at an institution of vocational or higher education and
49 achieves grades sufficient to reenroll at such institution, the parental support obligation shall
50 continue until the child completes his or her education, or until the child reaches the age of
51 twenty-one, whichever first occurs. To remain eligible for such continued parental support, at
52 the beginning of each semester the child shall submit to each parent a transcript or similar

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

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

85 7. The general assembly finds and declares that it is the public policy of this state that
86 frequent, continuing and meaningful contact with both parents after the parents have separated
87 or dissolved their marriage is in the best interest of the child except for cases where the court
88 specifically finds that such contact is not in the best interest of the child. In order to effectuate

89 this public policy, a court with jurisdiction shall enforce visitation, custody and child support
90 orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or
91 future obligation of support and may transfer the physical and legal or physical or legal custody
92 of one or more children if it finds that a parent has, without good cause, failed to provide
93 visitation or physical and legal or physical or legal custody to the other parent pursuant to the
94 terms of a judgment of dissolution, legal separation or modifications thereof. The court shall
95 also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court
96 costs incurred by the prevailing party.

97 8. The Missouri supreme court shall have in effect a rule establishing guidelines by
98 which any award of child support shall be made in any judicial or administrative proceeding.
99 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a
100 computation of the support obligation. The guidelines shall address how the amount of child
101 support shall be calculated when an award of joint physical custody results in the child or
102 children spending equal or substantially equal time with both parents and the directions and
103 comments and any tabular representations of the directions and comments for completion of the
104 child support guidelines and a subsequent form developed to reflect the guidelines shall reflect
105 the ability to obtain up to a fifty percent adjustment or credit below the basic child support
106 amount for joint physical custody or visitation as described in subsection 11 of this section. The
107 Missouri supreme court shall publish child support guidelines and specifically list and explain
108 the relevant factors and assumptions that were used to calculate the child support guidelines.
109 Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less
110 than once every four years to ensure that its application results in the determination of
111 appropriate child support award amounts.

112 9. There shall be a rebuttable presumption, in any judicial or administrative proceeding
113 for the award of child support, that the amount of the award which would result from the
114 application of the guidelines established pursuant to subsection 8 of this section is the correct
115 amount of child support to be awarded. A written finding or specific finding on the record in a
116 judicial or administrative proceeding that the application of the guidelines would be unjust or
117 inappropriate in a particular case, after considering all relevant factors, including the factors set
118 out in subsection 1 of this section, shall be required and shall be sufficient to rebut the
119 presumption in the case. The written finding or specific finding on the record shall detail the
120 specific relevant factors that required a deviation from the application of the guidelines.

121 10. Pursuant to this or any other chapter, when a court determines the amount owed by
122 a parent for support provided to a child by another person, other than a parent, prior to the date
123 of filing of a petition requesting support, or when the director of the family support division
124 establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section

125 454.465, the court or director shall use the guidelines established pursuant to subsection 8 of this
126 section. The amount of child support resulting from the application of the guidelines shall be
127 applied retroactively for a period prior to the establishment of a support order and the length of
128 the period of retroactivity shall be left to the discretion of the court or director. There shall be
129 a rebuttable presumption that the amount resulting from application of the guidelines under
130 subsection 8 of this section constitutes the amount owed by the parent for the period prior to the
131 date of the filing of the petition for support or the period for which state debt is being established.
132 In applying the guidelines to determine a retroactive support amount, when information as to
133 average monthly income is available, the court or director may use the average monthly income
134 of the noncustodial parent, as averaged over the period of retroactivity, in determining the
135 amount of presumed child support owed for the period of retroactivity. The court or director may
136 enter a different amount in a particular case upon finding, after consideration of all relevant
137 factors, including the factors set out in subsection 1 of this section, that there is sufficient cause
138 to rebut the presumed amount.

139 11. The court may award child support in an amount that provides up to a fifty percent
140 adjustment below the basic child support amount authorized by the child support guidelines
141 described under subsection 8 of this section for custody awards of joint physical custody where
142 the child or children spend equal or substantially equal time with both parents.

143 12. The obligation of a parent to make child support payments may be terminated as
144 follows:

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

150 (2) The obligation shall be deemed terminated without further judicial or administrative
151 process when the parent receiving child support furnishes a sworn statement or affidavit
152 notifying the obligor parent of the child's emancipation in accordance with the requirements of
153 subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the
154 court which entered the order establishing the child support obligation, or the family support
155 division for an order entered under section 454.470;

156 (3) The obligation shall be deemed terminated without further judicial or administrative
157 process when the parent paying child support files a sworn statement or affidavit with the court
158 which entered the order establishing the child support obligation, or the family support division
159 for an order entered under section 454.470, stating that the child is emancipated and reciting the
160 factual basis for such statement; which statement or affidavit is served by the court or division,

161 as applicable, on the child support obligee; and which is either acknowledged and affirmed by
162 the child support obligee in writing, or which is not responded to in writing within thirty days
163 of receipt by the child support obligee;

164 (4) The obligation shall be terminated as provided by this subdivision by the court which
165 entered the order establishing the child support obligation, or the family support division for an
166 order entered under section 454.470, when the parent paying child support files a sworn
167 statement or affidavit with the court which entered the order establishing the child support
168 obligation, or the family support division, as applicable, stating that the child is emancipated and
169 reciting the factual basis for such statement; and which statement or affidavit is served by the
170 court or division, as applicable, on the child support obligee. If the obligee denies the statement
171 or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a
172 request for hearing and shall proceed to hear and adjudicate such request for hearing as provided
173 by law; provided that the court may require the payment of a deposit as security for court costs
174 and any accrued court costs, as provided by law, in relation to such request for hearing. When
175 the division receives a request for hearing, the hearing shall be held in the manner provided by
176 section 454.475.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 3. (1) In any court proceedings relating to custody of a child, the court shall not award
41 custody or unsupervised visitation of a child to a parent if such parent or any person residing with
42 such parent has been found guilty of, or pled guilty to, any of the following offenses when a child
43 was the victim:

44 (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061, 566.062,
45 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203, 566.206,
46 566.209, 566.211, or 566.215;

47 (b) A violation of section 568.020;

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

49 (d) A violation of section 568.065;

50 (e) A violation of section 573.200;

51 (f) A violation of section 573.205; or

52 (g) A violation of section 568.175.

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

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

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

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

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

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

79 (4) Sole custody to either parent; or

80 (5) Third-party custody or visitation:

81 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian,
82 or the welfare of the child requires, and it is in the best interests of the child, then custody,
83 temporary custody or visitation may be awarded to any other person or persons deemed by the
84 court to be suitable and able to provide an adequate and stable environment for the child. Before

85 the court awards custody, temporary custody or visitation to a third person under this
86 subdivision, the court shall make that person a party to the action;

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

89 6. If the parties have not agreed to a custodial arrangement, or the court determines such
90 arrangement is not in the best interest of the child, the court shall include a written finding in the
91 judgment or order based on the public policy in subsection 4 of this section and each of the
92 factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific
93 relevant factors that made a particular arrangement in the best interest of the child. If a proposed
94 custodial arrangement is rejected by the court, the court shall include a written finding in the
95 judgment or order detailing the specific relevant factors resulting in the rejection of such
96 arrangement.

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

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

108 9. Any judgment providing for custody shall include a specific written parenting plan
109 setting forth the terms of such parenting plan arrangements specified in subsection 8 of section
110 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310
111 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan
112 approved and ordered by the court shall be in the court's discretion and shall be in the best
113 interest of the child.

114 10. After August 28, 2016, every court order establishing or modifying custody or
115 visitation shall include the following language: "In the event of noncompliance with this order,
116 the aggrieved party may file a verified motion for contempt. If custody, visitation, or third-party
117 custody is denied or interfered with by a parent or third party without good cause, the aggrieved
118 person may file a family access motion with the court stating the specific facts that constitute a
119 violation of the custody provisions of the judgment of dissolution, legal separation, or judgment
120 of paternity. The circuit clerk will provide the aggrieved party with an explanation of the

121 procedures for filing a family access motion and a simple form for use in filing the family access
122 motion. A family access motion does not require the assistance of legal counsel to prepare and
123 file."

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

130 12. Unless a parent has been denied custody rights pursuant to this section or visitation
131 rights under section 452.400 **or, upon the showing of proof, a noncustodial parent has failed**
132 **to maintain contact with a minor child for a period of six years or more**, both parents shall
133 have access to records and information pertaining to a minor child including, but not limited to,
134 medical, dental, and school records. If the parent without custody has been granted restricted or
135 supervised visitation because the court has found that the parent with custody or any child has
136 been the victim of domestic violence, as defined in section 455.010, by the parent without
137 custody, the court may order that the reports and records made available pursuant to this
138 subsection not include the address of the parent with custody or the child. A court shall order
139 that the reports and records made available under this subsection not include the address of the
140 parent with custody if the parent with custody is a participant in the address confidentiality
141 program under section 589.663. Unless a parent has been denied custody rights pursuant to this
142 section or visitation rights under section 452.400 **or, upon the showing of proof, a**
143 **noncustodial parent has failed to maintain contact with a child for a period of six years or**
144 **more**, any judgment of dissolution or other applicable court order shall specifically allow both
145 parents access to such records and reports.

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

154 14. An award of joint custody does not preclude an award of child support pursuant to
155 section 452.340 and applicable supreme court rules. The court shall consider the factors

156 contained in section 452.340 and applicable supreme court rules in determining an amount
157 reasonable or necessary for the support of the child.

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

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

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

12 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062, 566.064,
13 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,
14 566.209, 566.211, or 566.215;

15 b. A violation of section 568.020;

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

17 d. A violation of section 568.065;

18 e. A violation of section 573.200;

19 f. A violation of section 573.205; or

20 g. A violation of section 568.175.

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

27 (3) The court shall consider the parent's history of inflicting, or tendency to inflict,
28 physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on
29 other persons and shall grant visitation in a manner that best protects the child and the parent or

30 other family or household member who is the victim of domestic violence, and any other
31 children for whom the parent has custodial or visitation rights from any further harm.

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

36 **(5) Notwithstanding any provision of law, a parent who has not been granted**
37 **custody of the child and who has failed to maintain contact with such child for a period of**
38 **six years or more shall not be entitled to any visitation rights. The custodial parent shall**
39 **provide the court with proof that the parent who has not been granted custody of the child**
40 **has failed to maintain contact with the child for a period of six years or more.**

41 2. (1) The court may modify an order granting or denying visitation rights whenever
42 modification would serve the best interests of the child, but the court shall not restrict a parent's
43 visitation rights unless it finds that the visitation would endanger the child's physical health or
44 impair his or her emotional development.

45 (2) (a) In any proceeding modifying visitation rights, the court shall not grant
46 unsupervised visitation to a parent if the parent or any person residing with such parent has been
47 found guilty of or pled guilty to any of the 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,
49 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203, 566.206,
50 566.209, 566.211, or 566.215;

51 b. A violation of section 568.020;

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

53 d. A violation of section 568.065;

54 e. A violation of section 573.200;

55 f. A violation of section 573.205; or

56 g. A violation of section 568.175.

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

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

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

68 3. The court shall mandate compliance with its order by all parties to the action,
69 including parents, children and third parties. In the event of noncompliance, the aggrieved
70 person may file a verified motion for contempt. If custody, visitation or third-party custody is
71 denied or interfered with by a parent or third party without good cause, the aggrieved person may
72 file a family access motion with the court stating the specific facts which constitute a violation
73 of the judgment of dissolution, legal separation or judgment of paternity. The state courts
74 administrator shall develop a simple form for pro se motions to the aggrieved person, which shall
75 be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk,
76 shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks
77 will provide such assistance shall be conspicuously posted in the clerk's offices. The location
78 of the office where the family access motion may be filed shall be conspicuously posted in the
79 court building. The performance of duties described in this section shall not constitute the
80 practice of law as defined in section 484.010. Such form for pro se motions shall not require the
81 assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard
82 court costs otherwise due for instituting a civil action in the circuit court.

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

90

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

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

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

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

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

104 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO
105 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED
106 PARTY AND THE CHILD; AND

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

111

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

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

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

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

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

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

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

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

134 8. The reasonable expenses incurred as a result of denial or interference with custody or
135 visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody
136 or third-party custody, shall be assessed, if requested and for good cause, against the parent or
137 party who unreasonably denies or interferes with visitation, custody or third-party custody. In

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

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

144 10. Motions filed pursuant to this section shall not be deemed an independent civil action
145 from the original action pursuant to which the judgment or order sought to be enforced was
146 entered.

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