

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 531

AN ACT

To repeal section 452.375, RSMo, and to enact in lieu thereof one new section relating to child custody arrangements.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
AS FOLLOWS:

1           Section A. Section 452.375, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 452.375,  
3 to read as follows:

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

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

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

15           (3) "Joint physical custody" means an order awarding each  
16 of the parents significant, but not necessarily equal, periods of  
17 time during which a child resides with or is under the care and  
18 supervision of each of the parents. Joint physical custody shall

1 be shared by the parents in such a way as to assure the child of  
2 frequent, continuing and meaningful contact with both parents;

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

6 2. The court shall determine custody in accordance with the  
7 best interests of the child. There shall be a rebuttable  
8 presumption that an award of equal or approximately equal  
9 parenting time to each parent is in the best interests of the  
10 child. Such presumption is rebuttable only by a preponderance of  
11 the evidence in accordance with all relevant factors including,  
12 but not limited to, the factors contained in subdivisions (1) to  
13 (8) of this subsection. The presumption may be rebutted if the  
14 court finds that the parents have reached an agreement on all  
15 issues related to custody, or if the court finds that a pattern  
16 of domestic violence has occurred as set out in subdivision (6)  
17 of this subsection. When the parties have not reached an  
18 agreement on all issues related to custody, the court shall  
19 consider all relevant factors and enter written findings of fact  
20 and conclusions of law, including, but not limited to, the  
21 following:

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

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

28 (3) The interaction and interrelationship of the child with

1 parents, siblings, and any other person who may significantly  
2 affect the child's best interests;

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

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

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

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

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

27 3. (1) In any court proceedings relating to custody of a  
28 child, the court shall not award custody or unsupervised

1 visitation of a child to a parent if such parent or any person  
2 residing with such parent has been found guilty of, or pled  
3 guilty to, any of the following offenses when a child was the  
4 victim:

5 (a) A felony violation of section 566.030, 566.031,  
6 566.032, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068,  
7 566.083, 566.100, 566.101, 566.111, 566.151, 566.203, 566.206,  
8 566.209, 566.211, or 566.215;

9 (b) A violation of section 568.020;

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

12 (d) A violation of section 568.065;

13 (e) A violation of section 573.200;

14 (f) A violation of section 573.205; or

15 (g) A violation of section 568.175.

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

25 4. The general assembly finds and declares that it is the  
26 public policy of this state that frequent, continuing and  
27 meaningful contact with both parents after the parents have  
28 separated or dissolved their marriage is in the best interest of

1 the child, except for cases where the court specifically finds  
2 that such contact is not in the best interest of the child, and  
3 that it is the public policy of this state to encourage parents  
4 to participate in decisions affecting the health, education and  
5 welfare of their children, and to resolve disputes involving  
6 their children amicably through alternative dispute resolution.  
7 In order to effectuate these policies, the general assembly  
8 encourages the court to enter a temporary parenting plan as early  
9 as practicable in a proceeding under this chapter, consistent  
10 with the provisions of subsection 2 of this section, and, in so  
11 doing, the court shall determine the custody arrangement which  
12 will best assure both parents participate in such decisions and  
13 have frequent, continuing and meaningful contact with their  
14 children so long as it is in the best interests of the child.

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

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

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

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

1 (4) Sole custody to either parent; or

2 (5) Third-party custody or visitation:

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

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

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

26 7. Upon a finding by the court that either parent has  
27 refused to exchange information with the other parent, which  
28 shall include but not be limited to information concerning the

1 health, education and welfare of the child, the court shall order  
2 the parent to comply immediately and to pay the prevailing party  
3 a sum equal to the prevailing party's cost associated with  
4 obtaining the requested information, which shall include but not  
5 be limited to reasonable attorney's fees and court costs.

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

13 9. Any judgment providing for custody shall include a  
14 specific written parenting plan setting forth the terms of such  
15 parenting plan arrangements specified in subsection 8 of section  
16 452.310. Such plan may be a parenting plan submitted by the  
17 parties pursuant to section 452.310 or, in the absence thereof, a  
18 plan determined by the court, but in all cases, the custody plan  
19 approved and ordered by the court shall be in the court's  
20 discretion and shall be in the best interest of the child.

21 10. After August 28, 2016, every court order establishing  
22 or modifying custody or visitation shall include the following  
23 language: "In the event of noncompliance with this order, the  
24 aggrieved party may file a verified motion for contempt. If  
25 custody, visitation, or third-party custody is denied or  
26 interfered with by a parent or third party without good cause,  
27 the aggrieved person may file a family access motion with the  
28 court stating the specific facts that constitute a violation of

1 the custody provisions of the judgment of dissolution, legal  
2 separation, or judgment of paternity. The circuit clerk will  
3 provide the aggrieved party with an explanation of the procedures  
4 for filing a family access motion and a simple form for use in  
5 filing the family access motion. A family access motion does not  
6 require the assistance of legal counsel to prepare and file."

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

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

1 custody if the parent with custody is a participant in the  
2 address confidentiality program under section 589.663. Unless a  
3 parent has been denied custody rights pursuant to this section or  
4 visitation rights under section 452.400, any judgment of  
5 dissolution or other applicable court order shall specifically  
6 allow both parents access to such records and reports.

7 13. Except as otherwise precluded by state or federal law,  
8 if any individual, professional, public or private institution or  
9 organization denies access or fails to provide or disclose any  
10 and all records and information, including, but not limited to,  
11 past and present dental, medical and school records pertaining to  
12 a minor child, to either parent upon the written request of such  
13 parent, the court shall, upon its finding that the individual,  
14 professional, public or private institution or organization  
15 denied such request without good cause, order that party to  
16 comply immediately with such request and to pay to the prevailing  
17 party all costs incurred, including, but not limited to,  
18 attorney's fees and court costs associated with obtaining the  
19 requested information.

20 14. An award of joint custody does not preclude an award of  
21 child support pursuant to section 452.340 and applicable supreme  
22 court rules. The court shall consider the factors contained in  
23 section 452.340 and applicable supreme court rules in determining  
24 an amount reasonable or necessary for the support of the child.

25 15. If the court finds that domestic violence or abuse as  
26 defined in section 455.010 has occurred, the court shall make  
27 specific findings of fact to show that the custody or visitation  
28 arrangement ordered by the court best protects the child and the

1 parent or other family or household member who is the victim of  
2 domestic violence, as defined in section 455.010, and any other  
3 children for whom such parent has custodial or visitation rights  
4 from any further harm.

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