

SECOND REGULAR SESSION

SENATE BILL NO. 679

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Read 1st time January 8, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4898S.01I

AN ACT

To repeal section 452.340, RSMo, and to enact in lieu thereof two new sections relating to child support.

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

Section A. Section 452.340, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 452.339 and 452.340, to read as
3 follows:

**452.339. 1. As used in this section, the following terms shall
2 mean:**

3 **(1) "Higher education", any community college, college, or
4 university at which the child attends classes regularly;**

5 **(2) "Institution of vocational education", any postsecondary
6 training or schooling for which the student is assessed a fee and
7 attends classes regularly.**

8 **2. In any action for dissolution of marriage, legal separation, or
9 action to establish or modify child support, the court may order either
10 or both parents owing a duty of support to a child to provide for the
11 educational expenses of the child or children of the parties for costs
12 associated with attendance at an institution of vocational education or
13 higher education, whether such child is of minor or majority
14 age. Nothing in this section shall preclude the court from requiring the
15 child to be responsible for a portion of such child's educational
16 expenses.**

17 **3. An application for educational expenses may be made before
18 or within one hundred twenty days after the child has graduated from**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 a secondary school or completed a graduation equivalence degree
20 program, or reached the age of eighteen, whichever is later. The
21 authority under this section to make provisions for a child's
22 educational expenses extends only to periods of college education or
23 vocational or other training after graduation from high school. The
24 educational expenses may include, but shall not be limited to, room,
25 board, dues, tuition, transportation, books, nondiscretionary fees,
26 registration and application costs, medical expenses including medical
27 insurance, dental expenses, and living expenses during the school year
28 and periods of recess, which sums may be ordered payable to the child,
29 to either parent, or to the educational institution directly or through
30 a special account or trust created for such purpose, at the discretion of
31 the court.

32 4. The following shall apply for a child to remain eligible for
33 such continued educational parental support:

34 (1) If the child enrolls for and completes at least twelve hours of
35 credit each semester, not including summer semester, at an institution
36 of vocational education or higher education and achieves grades
37 sufficient to reenroll at such institution, the educational parental
38 support obligation shall continue until the child completes his or her
39 education, but no later than when the child reaches the age of twenty-
40 three; and

41 (2) Each parent and the child shall execute the consent necessary
42 for the educational institution to provide the supporting parent or
43 parents with access to the child's academic transcripts, records, and
44 grade reports. The consent shall not apply to any nonacademic
45 records. Failure to execute the required consent may be a basis for a
46 modification or termination of any order entered under this
47 section. Unless the court specifically finds that the child's safety would
48 be jeopardized, each parent is entitled to be informed of the name of
49 the educational institution the child attends.

50 5. When enrolled in at least twelve credit hours, if the child
51 receives failing grades in half or more of his or her courseload in any
52 one semester, payment of educational support shall be terminated and
53 shall not be eligible for reinstatement.

54 6. When determining the cost of postsecondary education, the
55 court may consider the cost of attending an in-state public institution

56 for a course of instruction leading to an undergraduate degree and
57 shall include the reasonable costs for only necessary postsecondary
58 education expenses; however, nothing in this subsection shall prohibit
59 the court from considering an institution commensurate with the
60 financial resources of the parents.

61 7. When considering the amount of educational support for each
62 parent or the minor child, the court shall consider the following:

63 (1) The financial resources of both parents;

64 (2) The standard of living the child would have enjoyed had the
65 marriage not been dissolved;

66 (3) The child's financial resources, including but not limited to
67 the availability of financial aid whether in the form of scholarships,
68 grants, or student loans, and the ability of the child to earn income
69 while attending school;

70 (4) The child's academic performance;

71 (5) Any available financial aid or student loans available to each
72 parent; and

73 (6) The ability of each parent to meet such expenses.

74 8. Any contribution by the child for financial aid in the form of
75 scholarships, grants, or other form of need-based or performance-based
76 assistance shall first be deducted from the cost of postsecondary
77 education and the court shall apportion responsibility for the
78 remaining cost of postsecondary education to each parent.

79 9. A child who has been diagnosed with a developmental
80 disability, as defined in section 630.005, or whose physical disability or
81 diagnosed health problem limits the child's ability to carry the number
82 of credit hours prescribed in this section shall remain eligible for
83 educational child support so long as such child is enrolled in and
84 attending an institution of vocational education or higher education,
85 and the child continues to meet the other requirements of this section.

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

7 (1) The financial needs and resources of the child;

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

17 2. The obligation of the parent ordered to make support payments shall
18 abate, in whole or in part, for such periods of time in excess of thirty consecutive
19 days that the other parent has voluntarily relinquished physical custody of a
20 child to the parent ordered to pay child support, notwithstanding any periods of
21 visitation or temporary physical and legal or physical or legal custody pursuant
22 to a judgment of dissolution or legal separation or any modification thereof. In
23 a IV-D case, the family support division may determine the amount of the
24 abatement pursuant to this subsection for any child support order and shall
25 record the amount of abatement in the automated child support system record
26 established pursuant to chapter 454. If the case is not a IV-D case and upon
27 court order, the circuit clerk shall record the amount of abatement in the
28 automated child support system record established in chapter 454.

29 3. Unless the circumstances of the child manifestly dictate otherwise and
30 the court specifically so provides, the obligation of a parent to make child support
31 payments shall terminate when the child:

- 32 (1) Dies;
- 33 (2) Marries;
- 34 (3) Enters active duty in the military;
- 35 (4) Becomes self-supporting, provided that the custodial parent has
36 relinquished the child from parental control by express or implied consent;
- 37 (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this
38 section apply; or
- 39 (6) Reaches age twenty-one, unless the provisions of the child support
40 order specifically extend the parental support order past the child's twenty-first
41 birthday for reasons provided by subsection 4 of this section.

42 4. If the child is physically or mentally incapacitated from supporting
43 himself and insolvent and unmarried, the court may extend the parental support

44 obligation past the child's eighteenth birthday.

45 5. [If when a child reaches age eighteen, the child is enrolled in and
46 attending a secondary school program of instruction, the parental support
47 obligation shall continue, if the child continues to attend and progresses toward
48 completion of said program, until the child completes such program or reaches
49 age twenty-one, whichever first occurs. If the child is enrolled in an institution
50 of vocational or higher education not later than October first following graduation
51 from a secondary school or completion of a graduation equivalence degree
52 program and so long as the child enrolls for and completes at least twelve hours
53 of credit each semester, not including the summer semester, at an institution of
54 vocational or higher education and achieves grades sufficient to reenroll at such
55 institution, the parental support obligation shall continue until the child
56 completes his or her education, or until the child reaches the age of twenty-one,
57 whichever first occurs. To remain eligible for such continued parental support,
58 at the beginning of each semester the child shall submit to each parent a
59 transcript or similar official document provided by the institution of vocational
60 or higher education which includes the courses the child is enrolled in and has
61 completed for each term, the grades and credits received for each such course, and
62 an official document from the institution listing the courses which the child is
63 enrolled in for the upcoming term and the number of credits for each such
64 course. When enrolled in at least twelve credit hours, if the child receives failing
65 grades in half or more of his or her courseload in any one semester, payment of
66 child support may be terminated and shall not be eligible for
67 reinstatement. Upon request for notification of the child's grades by the
68 noncustodial parent, the child shall produce the required documents to the
69 noncustodial parent within thirty days of receipt of grades from the education
70 institution. If the child fails to produce the required documents, payment of child
71 support may terminate without the accrual of any child support arrearage and
72 shall not be eligible for reinstatement. If the circumstances of the child
73 manifestly dictate, the court may waive the October first deadline for enrollment
74 required by this subsection. If the child is enrolled in such an institution, the
75 child or parent obligated to pay support may petition the court to amend the
76 order to direct the obligated parent to make the payments directly to the child.
77 As used in this section, an "institution of vocational education" means any
78 postsecondary training or schooling for which the student is assessed a fee and
79 attends classes regularly. "Higher education" means any community college,

80 college, or university at which the child attends classes regularly. A child who
81 has been diagnosed with a developmental disability, as defined in section 630.005,
82 or whose physical disability or diagnosed health problem limits the child's ability
83 to carry the number of credit hours prescribed in this subsection, shall remain
84 eligible for child support so long as such child is enrolled in and attending an
85 institution of vocational or higher education, and the child continues to meet the
86 other requirements of this subsection. A child who is employed at least fifteen
87 hours per week during the semester may take as few as nine credit hours per
88 semester and remain eligible for child support so long as all other requirements
89 of this subsection are complied with.] **The court may order either or both**
90 **parents owing a duty of support to a child to provide for the**
91 **educational expenses of the child in accordance with section 452.339.**

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

97 7. The general assembly finds and declares that it is the public policy of
98 this state that frequent, continuing and meaningful contact with both parents
99 after the parents have separated or dissolved their marriage is in the best
100 interest of the child except for cases where the court specifically finds that such
101 contact is not in the best interest of the child. In order to effectuate this public
102 policy, a court with jurisdiction shall enforce visitation, custody and child support
103 orders in the same manner. A court with jurisdiction may abate, in whole or in
104 part, any past or future obligation of support and may transfer the physical and
105 legal or physical or legal custody of one or more children if it finds that a parent
106 has, without good cause, failed to provide visitation or physical and legal or
107 physical or legal custody to the other parent pursuant to the terms of a judgment
108 of dissolution, legal separation or modifications thereof. The court shall also
109 award, if requested and for good cause shown, reasonable expenses, attorney's
110 fees and court costs incurred by the prevailing party.

111 8. The Missouri supreme court shall have in effect a rule establishing
112 guidelines by which any award of child support shall be made in any judicial or
113 administrative proceeding. Said guidelines shall contain specific, descriptive and
114 numeric criteria which will result in a computation of the support obligation. The
115 guidelines shall address how the amount of child support shall be calculated

116 when an award of joint physical custody results in the child or children spending
117 equal or substantially equal time with both parents and the directions and
118 comments and any tabular representations of the directions and comments for
119 completion of the child support guidelines and a subsequent form developed to
120 reflect the guidelines shall reflect the ability to obtain up to a fifty percent
121 adjustment or credit below the basic child support amount for joint physical
122 custody or visitation as described in subsection 11 of this section. The Missouri
123 supreme court shall publish child support guidelines and specifically list and
124 explain the relevant factors and assumptions that were used to calculate the child
125 support guidelines. Any rule made pursuant to this subsection shall be reviewed
126 by the promulgating body not less than once every four years to ensure that its
127 application results in the determination of appropriate child support award
128 amounts.

129 9. There shall be a rebuttable presumption, in any judicial or
130 administrative proceeding for the award of child support, that the amount of the
131 award which would result from the application of the guidelines established
132 pursuant to subsection 8 of this section is the correct amount of child support to
133 be awarded. A written finding or specific finding on the record in a judicial or
134 administrative proceeding that the application of the guidelines would be unjust
135 or inappropriate in a particular case, after considering all relevant factors,
136 including the factors set out in subsection 1 of this section, is required if
137 requested by a party and shall be sufficient to rebut the presumption in the
138 case. The written finding or specific finding on the record shall detail the specific
139 relevant factors that required a deviation from the application of the guidelines.

140 10. Pursuant to this or any other chapter, when a court determines the
141 amount owed by a parent for support provided to a child by another person, other
142 than a parent, prior to the date of filing of a petition requesting support, or when
143 the director of the family support division establishes the amount of state debt
144 due pursuant to subdivision (2) of subsection 1 of section 454.465, the court or
145 director shall use the guidelines established pursuant to subsection 8 of this
146 section. The amount of child support resulting from the application of the
147 guidelines shall be applied retroactively for a period prior to the establishment
148 of a support order and the length of the period of retroactivity shall be left to the
149 discretion of the court or director. There shall be a rebuttable presumption that
150 the amount resulting from application of the guidelines under subsection 8 of this
151 section constitutes the amount owed by the parent for the period prior to the date

152 of the filing of the petition for support or the period for which state debt is being
153 established. In applying the guidelines to determine a retroactive support
154 amount, when information as to average monthly income is available, the court
155 or director may use the average monthly income of the noncustodial parent, as
156 averaged over the period of retroactivity, in determining the amount of presumed
157 child support owed for the period of retroactivity. The court or director may enter
158 a different amount in a particular case upon finding, after consideration of all
159 relevant factors, including the factors set out in subsection 1 of this section, that
160 there is sufficient cause to rebut the presumed amount.

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

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

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

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

180 (3) The obligation shall be deemed terminated without further judicial or
181 administrative process when the parent paying child support files a sworn
182 statement or affidavit with the court which entered the order establishing the
183 child support obligation, or the family support division for an order entered under
184 section 454.470, stating that the child is emancipated and reciting the factual
185 basis for such statement; which statement or affidavit is served by the court or
186 division, as applicable, on the child support obligee; and which is either
187 acknowledged and affirmed by the child support obligee in writing, or which is

188 not responded to in writing within thirty days of receipt by the child support
189 obligee;

190 (4) The obligation shall be terminated as provided by this subdivision by
191 the court which entered the order establishing the child support obligation, or the
192 family support division for an order entered under section 454.470, when the
193 parent paying child support files a sworn statement or affidavit with the court
194 which entered the order establishing the child support obligation, or the family
195 support division, as applicable, stating that the child is emancipated and reciting
196 the factual basis for such statement; and which statement or affidavit is served
197 by the court or division, as applicable, on the child support obligee. If the obligee
198 denies the statement or affidavit, the court or division shall thereupon treat the
199 sworn statement or affidavit as a request for hearing and shall proceed to hear
200 and adjudicate such request for hearing as provided by law; provided that the
201 court may require the payment of a deposit as security for court costs and any
202 accrued court costs, as provided by law, in relation to such request for
203 hearing. When the division receives a request for hearing, the hearing shall be
204 held in the manner provided by section 454.475.

205 13. The court may enter a judgment terminating child support pursuant
206 to subdivisions (1) to (3) of subsection 12 of this section without necessity of a
207 court appearance by either party. The clerk of the court shall mail a copy of a
208 judgment terminating child support entered pursuant to subsection 12 of this
209 section on both the obligor and obligee parents. The supreme court may
210 promulgate uniform forms for sworn statements and affidavits to terminate
211 orders of child support obligations for use pursuant to subsection 12 of this
212 section and subsection 4 of section 452.370.

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