

FIRST REGULAR SESSION

# SENATE BILL NO. 199

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

0894S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 452.335, 452.370, and 452.375, RSMo, and to enact in lieu thereof three new sections relating to domestic relations.

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

Section A. Sections 452.335, 452.370, and 452.375, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 452.335, 452.370, and 452.375, to read as follows:

452.335. 1. In a proceeding for nonretroactive invalidity, dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order to either spouse, **which may be bridge, rehabilitative, or durational**, but only if it finds that the spouse seeking maintenance:

(1) Lacks sufficient property, including marital property apportioned to him **or her**, to provide for his **or her** reasonable needs; and

(2) Is unable to support himself **or herself** through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

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

17           2. The maintenance order shall be in such amounts and  
18 for such periods of time as the court deems just, and after  
19 considering all relevant factors, including:

20           (1) The financial resources of the party seeking  
21 maintenance, including marital property apportioned to him  
22 **or her**, and his **or her** ability to meet his **or her** needs  
23 independently, including the extent to which a provision for  
24 support of a child living with the party includes a sum for  
25 that party as custodian;

26           (2) The time necessary to acquire sufficient education  
27 or training to enable the party seeking maintenance to find  
28 appropriate employment;

29           (3) The comparative earning capacity of each spouse;

30           (4) The standard of living established during the  
31 marriage;

32           (5) The obligations and assets, including the marital  
33 property apportioned to him **or her** and the separate property  
34 of each party;

35           (6) The duration of the marriage;

36           (7) The age[, ] and the physical and emotional  
37 condition of [the spouse seeking maintenance] **each party**;

38           (8) The ability of the spouse from whom maintenance is  
39 sought to meet his **or her** needs while meeting those of the  
40 spouse seeking maintenance;

41           (9) The conduct of the parties during the marriage; and

42           (10) Any other relevant factors.

43           3. The maintenance order shall state if it is **bridge,**  
44 **rehabilitative, or durational and whether the order is**  
45 modifiable or nonmodifiable. The court may order  
46 maintenance which includes a termination date **in accordance**  
47 **with the provisions of this section.** Unless the maintenance  
48 order which includes a termination date is nonmodifiable,

49 the court may order the maintenance decreased, increased,  
50 terminated, extended, or otherwise modified based upon a  
51 substantial and continuing change of circumstances which  
52 occurred prior to the termination date of the original  
53 order; **provided that no maintenance order shall be modified**  
54 **to extend its duration in excess of the limits established**  
55 **in this section, except as provided in subsection 10 of this**  
56 **section.**

57 4. For purposes of determining maintenance only, a  
58 short-term marriage is a marriage having a duration of less  
59 than seven years; a moderate-term marriage is a marriage  
60 having a duration of seven years or more but less than  
61 seventeen years; and a long-term marriage is a marriage  
62 having a duration of seventeen years or more. The duration  
63 of a marriage is the period of time from the first day of  
64 the marriage until the date of the filing of a petition for  
65 dissolution of marriage or legal separation.

66 5. Bridge maintenance may be awarded to assist a party  
67 to a short-term marriage seeking maintenance with  
68 legitimate, identifiable short-term needs. The length of  
69 the maintenance shall not exceed two years. An award of  
70 bridge maintenance shall terminate upon the death of either  
71 party or upon the remarriage of the party receiving  
72 maintenance. An award of bridge maintenance shall not be  
73 modifiable in amount or duration.

74 6. (1) Rehabilitative maintenance may be awarded to  
75 assist a party to a short-term or moderate-term marriage  
76 seeking maintenance in establishing the capacity for self-  
77 support through either:

78 (a) The redevelopment of previous skills or  
79 credentials; or

80 (b) The acquisition of education, training, or work  
81 experience necessary to develop appropriate employment  
82 skills or credentials.

83 (2) In order to award rehabilitative maintenance,  
84 there shall be a specific and defined rehabilitative plan,  
85 which shall be included as part of any order awarding  
86 rehabilitative maintenance. The length of the maintenance  
87 shall not exceed four years.

88 (3) An award of rehabilitative maintenance may be  
89 modified or terminated based upon a substantial change in  
90 circumstances, upon noncompliance with the rehabilitative  
91 plan, or upon completion of the rehabilitative plan;  
92 provided, that the length of the maintenance shall not be  
93 modified to exceed the limits set forth in this subsection,  
94 except as provided in subsection 10 of this section.

95 7. Durational maintenance may be awarded to provide  
96 for the needs and necessities of life as they were  
97 established during a moderate-term or long-term marriage.  
98 Durational maintenance may be awarded if such an award is  
99 appropriate upon consideration of the factors set forth in  
100 subsection 2 of this section.

101 8. A court shall not order durational maintenance that  
102 remains in effect for more than:

103 (1) Five years if the duration of the marriage was  
104 seven years or more but less than ten years;

105 (2) Seven years if the duration of the marriage was  
106 ten years or more but less than seventeen years; or

107 (3) Ten years if the duration of the marriage was  
108 seventeen years or more.

109 An award of durational maintenance may be modified in  
110 accordance with the provisions of subsection 3 of this

111 section; provided, that the length of the maintenance shall  
112 not be modified to exceed the limits set forth in this  
113 subsection, except as provided in subsection 10 of this  
114 section.

115 9. In establishing the term of durational maintenance,  
116 and for purposes of maintenance modifications decided on or  
117 after August 28, 2021, the court shall consider all relevant  
118 factors, including, but not limited to:

119 (1) The ability of the spouse paying maintenance to  
120 retire;

121 (2) Whether the court or the parties considered the  
122 retirement of the spouse paying maintenance in previous  
123 agreements or maintenance awards, including whether the  
124 spouse receiving maintenance has foregone or relinquished  
125 claims, rights, or property in exchange for a more  
126 substantial or longer maintenance award;

127 (3) Access to health care by both of the spouses; and

128 (4) The duration and amount of maintenance already  
129 paid.

130 10. Notwithstanding any other provision of law to the  
131 contrary, a court may award or modify rehabilitative or  
132 durational maintenance in excess of the limits set forth in  
133 this section if the court specifically finds, after  
134 consideration of all relevant factors, including those set  
135 forth in subsection 2 of this section, that such limits are  
136 not in the interests of fairness for the party seeking  
137 maintenance or modification of an existing maintenance  
138 order. The court shall enter written findings of fact and  
139 conclusions of law setting forth the grounds for exceeding  
140 the limits set forth in this section in the order  
141 establishing or modifying rehabilitative or durational  
142 maintenance.

143           11. An order awarding maintenance shall be subject to  
144 modification or termination if it can be shown that the  
145 recipient and another person have entered into a mutually  
146 supportive relationship that is the functional equivalent of  
147 marriage that has existed for at least twelve months of an  
148 eighteen-month period.

149           12. For purposes of modification of prior orders  
150 establishing maintenance, the standards set forth in this  
151 section shall be applicable to all initial actions and  
152 modifications decided on or after August 28, 2021.

          452.370. 1. Except as otherwise provided in  
2 subsection 6 of section 452.325, **and in accordance with the**  
3 **provisions of section 452.335**, the provisions of any  
4 judgment respecting maintenance or support may be modified  
5 only upon a showing of changed circumstances so substantial  
6 and continuing as to make the terms unreasonable. In a  
7 proceeding for modification of any child support or  
8 maintenance judgment, the court, in determining whether or  
9 not a substantial change in circumstances has occurred,  
10 shall consider all financial resources of both parties,  
11 including the extent to which the reasonable expenses of  
12 either party are, or should be, shared by a spouse or other  
13 person with whom he or she cohabits, and the earning  
14 capacity of a party who is not employed. If the application  
15 of the child support guidelines and criteria set forth in  
16 section 452.340 and applicable supreme court rules to the  
17 financial circumstances of the parties would result in a  
18 change of child support from the existing amount by twenty  
19 percent or more, a prima facie showing has been made of a  
20 change of circumstances so substantial and continuing as to  
21 make the present terms unreasonable, if the existing amount

22 was based upon the presumed amount pursuant to the child  
23 support guidelines.

24 2. When the party seeking modification has met the  
25 burden of proof set forth in subsection 1 of this section,  
26 the child support shall be determined in conformity with  
27 criteria set forth in section 452.340 and applicable supreme  
28 court rules.

29 3. Unless otherwise agreed in writing or expressly  
30 provided in the judgment, the obligation to pay future  
31 statutory maintenance is terminated upon the death of either  
32 party [or], the remarriage of the party receiving  
33 maintenance, **or if it can be shown that the party receiving**  
34 **maintenance and another person have entered into a mutually**  
35 **supportive relationship that is the functional equivalent of**  
36 **marriage that has existed for at least twelve months of an**  
37 **eighteen-month period.**

38 4. Unless otherwise agreed in writing or expressly  
39 provided in the judgment, provisions for the support of a  
40 child are terminated by emancipation of the child. The  
41 parent entitled to receive child support shall have the duty  
42 to notify the parent obligated to pay support of the child's  
43 emancipation and failing to do so, the parent entitled to  
44 receive child support shall be liable to the parent  
45 obligated to pay support for child support paid following  
46 emancipation of a minor child, plus interest.

47 5. If a parent has made an assignment of support  
48 rights to the family support division on behalf of the state  
49 as a condition of eligibility for benefits pursuant to the  
50 Temporary Assistance for Needy Families program and either  
51 party initiates a motion to modify the support obligation by  
52 reducing it, the state of Missouri shall be named as a party  
53 to the proceeding. The state shall be served with a copy of

54 the motion by sending it by certified mail to the director  
55 of the family support division.

56 6. The court shall have continuing personal  
57 jurisdiction over both the obligee and the obligor of a  
58 court order for child support or maintenance for the purpose  
59 of modifying such order. Both obligee and obligor shall  
60 notify, in writing, the clerk of the court in which the  
61 support or maintenance order was entered of any change of  
62 mailing address. If personal service of the motion cannot  
63 be had in this state, the motion to modify and notice of  
64 hearing shall be served outside the state as provided by  
65 supreme court rule 54.14. The order may be modified only as  
66 to support or maintenance installments which accrued  
67 subsequent to the date of personal service. For the purpose  
68 of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall  
69 be considered the appropriate agent to receive notice of the  
70 motion to modify for the obligee or the obligor, but only in  
71 those instances in which personal service could not be had  
72 in this state.

73 7. If a responsive pleading raising the issues of  
74 custody or visitation is filed in response to a motion to  
75 modify child support filed at the request of the family  
76 support division by a prosecuting attorney or circuit  
77 attorney or an attorney under contract with the division,  
78 such responsive pleading shall be severed upon request.

79 8. Notwithstanding any provision of this section which  
80 requires a showing of substantial and continuing change in  
81 circumstances, in a IV-D case filed pursuant to this section  
82 by the family support division as provided in section  
83 454.400, the court shall modify a support order in  
84 accordance with the guidelines and criteria set forth in  
85 supreme court rule 88.01 and any regulations thereunder if



86 the amount in the current order differs from the amount  
87 which would be ordered in accordance with such guidelines or  
88 regulations.

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

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

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

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

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

22 2. The court shall determine custody in accordance  
23 with the best interests of the child. **There shall be a**  
24 **rebuttable presumption that an award of equal or**  
25 **approximately equal parenting time to each parent is in the**  
26 **best interests of the child. Such presumption is rebuttable**  
27 **only by a preponderance of the evidence in accordance with**  
28 **all relevant factors including, but not limited to, the**  
29 **factors contained in subdivisions (1) to (8) of this**

30 subsection. The presumption may be rebutted if the court  
31 finds that the parents have reached an agreement on all  
32 issues related to custody, or if the court finds that a  
33 pattern of domestic violence has occurred as set out in  
34 subdivision (6) of this subsection. When the parties have  
35 not reached an agreement on all issues related to custody,  
36 the court shall consider all relevant factors and enter  
37 written findings of fact and conclusions of law, including,  
38 but not limited to, the following:

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

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

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

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

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

53 (6) The mental and physical health of all individuals  
54 involved, including any history of abuse of any individuals  
55 involved. If the court finds that a pattern of domestic  
56 violence as defined in section 455.010 has occurred, and, if  
57 the court also finds that awarding custody to the abusive  
58 parent is in the best interest of the child, then the court  
59 shall enter written findings of fact and conclusions of  
60 law. Custody and visitation rights shall be ordered in a  
61 manner that best protects the child and any other child or

62 children for whom the parent has custodial or visitation  
63 rights, and the parent or other family or household member  
64 who is the victim of domestic violence from any further harm;

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

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

72 3. (1) In any court proceedings relating to custody  
73 of a child, the court shall not award custody or  
74 unsupervised visitation of a child to a parent if such  
75 parent or any person residing with such parent has been  
76 found guilty of, or pled guilty to, any of the following  
77 offenses when a child was the victim:

78 (a) A felony violation of section 566.030, 566.031,  
79 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,  
80 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,  
81 566.203, 566.206, 566.209, 566.211, or 566.215;

82 (b) A violation of section 568.020;

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

85 (d) A violation of section 568.065;

86 (e) A violation of section 573.200;

87 (f) A violation of section 573.205; or

88 (g) A violation of section 568.175.

89 (2) For all other violations of offenses in chapters  
90 566 and 568 not specifically listed in subdivision (1) of  
91 this subsection or for a violation of an offense committed  
92 in another state when a child is the victim that would be a  
93 violation of chapter 566 or 568 if committed in Missouri,

94 the court may exercise its discretion in awarding custody or  
95 visitation of a child to a parent if such parent or any  
96 person residing with such parent has been found guilty of,  
97 or pled guilty to, any such offense.

98 4. The general assembly finds and declares that it is  
99 the public policy of this state that frequent, continuing  
100 and meaningful contact with both parents after the parents  
101 have separated or dissolved their marriage is in the best  
102 interest of the child, except for cases where the court  
103 specifically finds that such contact is not in the best  
104 interest of the child, and that it is the public policy of  
105 this state to encourage parents to participate in decisions  
106 affecting the health, education and welfare of their  
107 children, and to resolve disputes involving their children  
108 amicably through alternative dispute resolution. In order  
109 to effectuate these policies, the court shall determine the  
110 custody arrangement which will best assure both parents  
111 participate in such decisions and have frequent, continuing  
112 and meaningful contact with their children so long as it is  
113 in the best interests of the child.

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

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

123 (2) Joint physical custody with one party granted sole  
124 legal custody. The residence of one of the parents shall be

125 designated as the address of the child for mailing and  
126 educational purposes;

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

129 (4) Sole custody to either parent; or

130 (5) Third-party custody or visitation:

131 (a) When the court finds that each parent is unfit,  
132 unsuitable, or unable to be a custodian, or the welfare of  
133 the child requires, and it is in the best interests of the  
134 child, then custody, temporary custody or visitation may be  
135 awarded to any other person or persons deemed by the court  
136 to be suitable and able to provide an adequate and stable  
137 environment for the child. Before the court awards custody,  
138 temporary custody or visitation to a third person under this  
139 subdivision, the court shall make that person a party to the  
140 action;

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

144 6. If the parties have not agreed to a custodial  
145 arrangement, or the court determines such arrangement is not  
146 in the best interest of the child, the court shall include a  
147 written finding in the judgment or order based on the public  
148 policy in subsection 4 of this section and each of the  
149 factors listed in subdivisions (1) to (8) of subsection 2 of  
150 this section detailing the specific relevant factors that  
151 made a particular arrangement in the best interest of the  
152 child. If a proposed custodial arrangement is rejected by  
153 the court, the court shall include a written finding in the  
154 judgment or order detailing the specific relevant factors  
155 resulting in the rejection of such arrangement.

156           7. Upon a finding by the court that either parent has  
157 refused to exchange information with the other parent, which  
158 shall include but not be limited to information concerning  
159 the health, education and welfare of the child, the court  
160 shall order the parent to comply immediately and to pay the  
161 prevailing party a sum equal to the prevailing party's cost  
162 associated with obtaining the requested information, which  
163 shall include but not be limited to reasonable attorney's  
164 fees and court costs.

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

172           9. Any judgment providing for custody shall include a  
173 specific written parenting plan setting forth the terms of  
174 such parenting plan arrangements specified in subsection 8  
175 of section 452.310. Such plan may be a parenting plan  
176 submitted by the parties pursuant to section 452.310 or, in  
177 the absence thereof, a plan determined by the court, but in  
178 all cases, the custody plan approved and ordered by the  
179 court shall be in the court's discretion and shall be in the  
180 best interest of the child.

181           10. After August 28, 2016, every court order  
182 establishing or modifying custody or visitation shall  
183 include the following language: "In the event of  
184 noncompliance with this order, the aggrieved party may file  
185 a verified motion for contempt. If custody, visitation, or  
186 third-party custody is denied or interfered with by a parent  
187 or third party without good cause, the aggrieved person may

188 file a family access motion with the court stating the  
189 specific facts that constitute a violation of the custody  
190 provisions of the judgment of dissolution, legal separation,  
191 or judgment of paternity. The circuit clerk will provide  
192 the aggrieved party with an explanation of the procedures  
193 for filing a family access motion and a simple form for use  
194 in filing the family access motion. A family access motion  
195 does not require the assistance of legal counsel to prepare  
196 and file."

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

206 12. Unless a parent has been denied custody rights  
207 pursuant to this section or visitation rights under section  
208 452.400, both parents shall have access to records and  
209 information pertaining to a minor child including, but not  
210 limited to, medical, dental, and school records. If the  
211 parent without custody has been granted restricted or  
212 supervised visitation because the court has found that the  
213 parent with custody or any child has been the victim of  
214 domestic violence, as defined in section 455.010, by the  
215 parent without custody, the court may order that the reports  
216 and records made available pursuant to this subsection not  
217 include the address of the parent with custody or the  
218 child. A court shall order that the reports and records  
219 made available under this subsection not include the address

220 of the parent with custody if the parent with custody is a  
221 participant in the address confidentiality program under  
222 section 589.663. Unless a parent has been denied custody  
223 rights pursuant to this section or visitation rights under  
224 section 452.400, any judgment of dissolution or other  
225 applicable court order shall specifically allow both parents  
226 access to such records and reports.

227         13. Except as otherwise precluded by state or federal  
228 law, if any individual, professional, public or private  
229 institution or organization denies access or fails to  
230 provide or disclose any and all records and information,  
231 including, but not limited to, past and present dental,  
232 medical and school records pertaining to a minor child, to  
233 either parent upon the written request of such parent, the  
234 court shall, upon its finding that the individual,  
235 professional, public or private institution or organization  
236 denied such request without good cause, order that party to  
237 comply immediately with such request and to pay to the  
238 prevailing party all costs incurred, including, but not  
239 limited to, attorney's fees and court costs associated with  
240 obtaining the requested information.

241         14. An award of joint custody does not preclude an  
242 award of child support pursuant to section 452.340 and  
243 applicable supreme court rules. The court shall consider  
244 the factors contained in section 452.340 and applicable  
245 supreme court rules in determining an amount reasonable or  
246 necessary for the support of the child.

247         15. If the court finds that domestic violence or abuse  
248 as defined in section 455.010 has occurred, the court shall  
249 make specific findings of fact to show that the custody or  
250 visitation arrangement ordered by the court best protects  
251 the child and the parent or other family or household member



252 who is the victim of domestic violence, as defined in  
253 section 455.010, and any other children for whom such parent  
254 has custodial or visitation rights from any further harm.

✓