

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HCS/House Bill No. 2151, Page 78, Section 217.947, Line 13,

2 by inserting after all of said line the following:

3 "452.375. 1. As used in this chapter, unless the  
4 context clearly indicates otherwise:

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

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

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

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

24 2. The court shall determine custody in accordance  
25 with the best interests of the child. **When the parties**  
26 **have not reached an agreement on all issues related to**

27 custody, the court] There shall be a rebuttable presumption  
28 that an award of equal or approximately equal parenting time  
29 that maximizes time with each parent is in the best  
30 interests of the child. Such presumption is rebuttable by a  
31 preponderance of the evidence in accordance with all  
32 relevant factors, including, but not limited to, the factors  
33 contained in subdivisions (1) to (9) of this subsection.  
34 The presumption shall be rebutted if the court finds that  
35 the parents have reached an agreement on all issues related  
36 to custody, or if the court finds that a pattern of domestic  
37 violence has occurred as set out in subdivision (7) of this  
38 subsection. The court shall construct a parenting plan that  
39 is consistent with ensuring the child's welfare and shall  
40 consider all relevant factors and enter written findings of  
41 fact and conclusions of law, including, but not limited to,  
42 the following:

- 43       (1) The wishes of the child's parents as to custody  
44 and the proposed parenting plan submitted by both parties;  
45       (2) The needs of the child for a frequent, continuing  
46 and meaningful relationship with both parents and the  
47 ability and willingness of parents to actively perform their  
48 functions as mother and father for the needs of the child;  
49       (3) The interaction and interrelationship of the child  
50 with parents, siblings, and any other person who may  
51 significantly affect the child's best interests;  
52       (4) Which parent is more likely to allow the child  
53 frequent, continuing and meaningful contact with the other  
54 parent; the willingness and ability of parents to cooperate  
55 in the rearing of their child; to maximize sharing  
56 information and minimize exposure of the child to parental  
57 conflict; and to utilize methods for resolving disputes  
58 regarding any major decision concerning the life of the  
59 child;

60           (5) The child's needs; adjustment to the child's home,  
61 school, and community; and the child's physical, emotional,  
62 educational, and other needs. The fact that a parent sends  
63 his or her child or children to a home school, as defined in  
64 section 167.031, shall not be the sole factor that a court  
65 considers in determining custody of such child or children;

66           (6) The mental and physical health of all individuals  
67 involved, including the mental health or substance abuse  
68 history experienced by either parent;

69           (7) Any history of abuse of any individuals involved,  
70 including domestic and child abuse. In determining whether  
71 the presumption is rebutted by a pattern of domestic  
72 violence, the court shall consider the nature and context of  
73 the domestic violence and the implications of the domestic  
74 violence for parenting and for the child's safety, well-  
75 being, and developmental needs. If the court finds that a  
76 pattern of domestic violence as defined in section 455.010  
77 has occurred, and, if the court also finds that awarding  
78 custody to the abusive parent is in the best interest of the  
79 child, then the court shall enter written findings of fact  
80 and conclusions of law. Custody and visitation rights shall  
81 be ordered in a manner that best protects the child and any  
82 other child or children for whom the parent has custodial or  
83 visitation rights, and the parent or other family or  
84 household member who is the victim of domestic violence from  
85 any further harm, whether physical, verbal, emotional, or  
86 psychological;

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

89           (8) The wishes of a child as to the child's  
90 custodian. The fact that a parent sends his or her child or  
91 children to a home school, as defined in section 167.031,

92 shall not be the sole factor that a court considers in  
93 determining custody of such child or children.]

94 (8) The distance between the residences of the parents  
95 seeking custody, including consideration of any relocation  
96 which has occurred or an intent to relocate; and

97 (9) The reasonable input of the child as to the  
98 child's custodian, if the court deems the child to be of  
99 sufficient ability, age, and maturity to express an  
100 independent, reliable preference and that such input is in  
101 the best interests of the child and will not be emotionally  
102 damaging, with due consideration of the influence that a  
103 parent may have on the child's input.

104 3. (1) In any court proceedings relating to custody  
105 of a child, the court shall not award custody or  
106 unsupervised visitation of a child to a parent if such  
107 parent or any person residing with such parent has been  
108 found guilty of, or pled guilty to, any of the following  
109 offenses when a child was the victim:

110 (a) A felony violation of section 566.030, 566.031,  
111 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,  
112 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,  
113 566.203, 566.206, 566.209, 566.211, or 566.215;

114 (b) A violation of section 568.020;

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

117 (d) A violation of section 568.065;

118 (e) A violation of section 573.200;

119 (f) A violation of section 573.205; or

120 (g) A violation of section 568.175.

121 (2) For all other violations of offenses in chapters  
122 566 and 568 not specifically listed in subdivision (1) of  
123 this subsection or for a violation of an offense committed  
124 in another state when a child is the victim that would be a

125 violation of chapter 566 or 568 if committed in Missouri,  
126 the court may exercise its discretion in awarding custody or  
127 visitation of a child to a parent if such parent or any  
128 person residing with such parent has been found guilty of,  
129 or pled guilty to, any such offense.

130 4. The general assembly finds and declares that it is  
131 the public policy of this state that frequent, continuing  
132 and meaningful contact with both parents after the parents  
133 have separated or dissolved their marriage is in the best  
134 interest of the child, except for cases where the court  
135 specifically finds that such contact is not in the best  
136 interest of the child, and that it is the public policy of  
137 this state to encourage parents to participate in decisions  
138 affecting the health, education and welfare of their  
139 children, and to resolve disputes involving their children  
140 amicably through alternative dispute resolution. In order  
141 to effectuate these policies, the general assembly  
142 encourages the court to enter a temporary parenting plan as  
143 early as practicable in a proceeding under this chapter,  
144 including, but not limited to, at an initial case management  
145 conference, consistent with the provisions of subsection 2  
146 of this section, and in doing so the court shall determine  
147 the custody arrangement which will best assure both parents  
148 participate in such decisions and have frequent, continuing  
149 and meaningful contact with their children so long as it is  
150 in the best interests of the child.

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

154 (1) Joint physical and joint legal custody to both  
155 parents, which shall not be denied solely for the reason  
156 that one parent opposes a joint physical and joint legal  
157 custody award. The residence of one of the parents shall be

158 designated as the address of the child for mailing and  
159 educational purposes;

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

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

166 (4) Sole custody to either parent; or

167 (5) Third-party custody or visitation:

168 (a) When the court finds that each parent is unfit,  
169 unsuitable, or unable to be a custodian, or the welfare of  
170 the child requires, and it is in the best interests of the  
171 child, then custody, temporary custody or visitation may be  
172 awarded to a person related by consanguinity or affinity to  
173 the child. If no person related to the child by  
174 consanguinity or affinity is willing to accept custody, then  
175 the court may award custody to any other person or persons  
176 deemed by the court to be suitable and able to provide an  
177 adequate and stable environment for the child. Before the  
178 court awards custody, temporary custody or visitation to a  
179 third person under this subdivision, the court shall make  
180 that person a party to the action;

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

184 6. If the parties have not agreed to a custodial  
185 arrangement, or the court determines such arrangement is not  
186 in the best interest of the child, the court shall include a  
187 written finding in the judgment or order based on the public  
188 policy in subsection 4 of this section and each of the  
189 factors listed in subdivisions (1) to **[(8)]** (9) of  
190 subsection 2 of this section detailing the specific relevant

191 factors that made a particular arrangement in the best  
192 interest of the child. If a proposed custodial arrangement  
193 is rejected by the court, the court shall include a written  
194 finding in the judgment or order detailing the specific  
195 relevant factors resulting in the rejection of such  
196 arrangement.

197         7. Upon a finding by the court that either parent has  
198 refused to exchange information with the other parent, which  
199 shall include but not be limited to information concerning  
200 the health, education and welfare of the child, the court  
201 shall order the parent to comply immediately and to pay the  
202 prevailing party a sum equal to the prevailing party's cost  
203 associated with obtaining the requested information, which  
204 shall include but not be limited to reasonable attorney's  
205 fees and court costs.

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

213         9. Any judgment providing for custody shall include a  
214 specific written parenting plan setting forth the terms of  
215 such parenting plan arrangements specified in subsection 8  
216 of section 452.310. Such plan may be a parenting plan  
217 submitted by the parties pursuant to section 452.310 or, in  
218 the absence thereof, a plan determined by the court, but in  
219 all cases, the custody plan approved and ordered by the  
220 court shall be in the court's discretion and shall be in the  
221 best interest of the child.

222         10. After August 28, 2016, every court order  
223 establishing or modifying custody or visitation shall

224 include the following language: "In the event of  
225 noncompliance with this order, the aggrieved party may file  
226 a verified motion for contempt. If custody, visitation, or  
227 third-party custody is denied or interfered with by a parent  
228 or third party without good cause, the aggrieved person may  
229 file a family access motion with the court stating the  
230 specific facts that constitute a violation of the custody  
231 provisions of the judgment of dissolution, legal separation,  
232 or judgment of paternity. The circuit clerk will provide  
233 the aggrieved party with an explanation of the procedures  
234 for filing a family access motion and a simple form for use  
235 in filing the family access motion. A family access motion  
236 does not require the assistance of legal counsel to prepare  
237 and file."

238 11. No court shall adopt any local rule, form, or  
239 practice requiring a standardized or default parenting plan  
240 for interim, temporary, or permanent orders or judgments.  
241 Notwithstanding any other provision to the contrary, a court  
242 may enter an interim order in a proceeding under this  
243 chapter, provided that the interim order shall not contain  
244 any provisions about child custody or a parenting schedule  
245 or plan without first providing the parties with notice and  
246 a hearing, unless the parties otherwise agree.

247 12. Unless a parent has been denied custody rights  
248 pursuant to this section or visitation rights under section  
249 452.400, both parents shall have access to records and  
250 information pertaining to a minor child including, but not  
251 limited to, medical, dental, and school records. If the  
252 parent without custody has been granted restricted or  
253 supervised visitation because the court has found that the  
254 parent with custody or any child has been the victim of  
255 domestic violence, as defined in section 455.010, by the  
256 parent without custody, the court may order that the reports



257 and records made available pursuant to this subsection not  
258 include the address of the parent with custody or the  
259 child. A court shall order that the reports and records  
260 made available under this subsection not include the address  
261 of the parent with custody if the parent with custody is a  
262 participant in the address confidentiality program under  
263 section 589.663. Unless a parent has been denied custody  
264 rights pursuant to this section or visitation rights under  
265 section 452.400, any judgment of dissolution or other  
266 applicable court order shall specifically allow both parents  
267 access to such records and reports.

268       13. Except as otherwise precluded by state or federal  
269 law, if any individual, professional, public or private  
270 institution or organization denies access or fails to  
271 provide or disclose any and all records and information,  
272 including, but not limited to, past and present dental,  
273 medical and school records pertaining to a minor child, to  
274 either parent upon the written request of such parent, the  
275 court shall, upon its finding that the individual,  
276 professional, public or private institution or organization  
277 denied such request without good cause, order that party to  
278 comply immediately with such request and to pay to the  
279 prevailing party all costs incurred, including, but not  
280 limited to, attorney's fees and court costs associated with  
281 obtaining the requested information.

282       14. An award of joint custody does not preclude an  
283 award of child support pursuant to section 452.340 and  
284 applicable supreme court rules. The court shall consider  
285 the factors contained in section 452.340 and applicable  
286 supreme court rules in determining an amount reasonable or  
287 necessary for the support of the child.

288       15. If the court finds that domestic violence or abuse  
289 as defined in section 455.010 has occurred, the court shall

290 make specific findings of fact to show that the custody or  
291 visitation arrangement ordered by the court best protects  
292 the child and the parent or other family or household member  
293 who is the victim of domestic violence, as defined in  
294 section 455.010, and any other children for whom such parent  
295 has custodial or visitation rights from any further harm.";  
296 and

297 Further amend the title and enacting clause accordingly.