

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

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

Amend SS/SCS/Senate Bill No. 683, Page 52, Section 210.1080, Line 318,

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 have  
26 not reached an agreement on all issues related to custody,

27 the court shall consider all relevant factors and enter  
28 written findings of fact and conclusions of law, including,  
29 but not limited to, the following:

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

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

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

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

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

44 (6) The mental and physical health of all individuals  
45 involved, including any history of abuse of any individuals  
46 involved. If the court finds that a pattern of domestic  
47 violence as defined in section 455.010 has occurred, and, if  
48 the court also finds that awarding custody to the abusive  
49 parent is in the best interest of the child, then the court  
50 shall enter written findings of fact and conclusions of  
51 law. Custody and visitation rights shall be ordered in a  
52 manner that best protects the child and any other child or  
53 children for whom the parent has custodial or visitation  
54 rights, and the parent or other family or household member  
55 who is the victim of domestic violence from any further harm;

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

58 (8) The wishes of a child as to the child's  
59 custodian. The fact that a parent sends his or her child or

60 children to a home school, as defined in section 167.031,  
61 shall not be the sole factor that a court considers in  
62 determining custody of such child or children.

63 3. (1) In any court proceedings relating to custody  
64 of a child, the court shall not award custody or  
65 unsupervised visitation of a child to a parent if such  
66 parent or any person residing with such parent has been  
67 found guilty of, or pled guilty to, any of the following  
68 offenses when a child was the victim:

69 (a) A felony violation of section 566.030, 566.031,  
70 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,  
71 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,  
72 566.203, 566.206, 566.209, 566.211, or 566.215;

73 (b) A violation of section 568.020;

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

76 (d) A violation of section 568.065;

77 (e) A violation of section 573.200;

78 (f) A violation of section 573.205; or

79 (g) A violation of section 568.175.

80 (2) For all other violations of offenses in chapters  
81 566 and 568 not specifically listed in subdivision (1) of  
82 this subsection or for a violation of an offense committed  
83 in another state when a child is the victim that would be a  
84 violation of chapter 566 or 568 if committed in Missouri,  
85 the court may exercise its discretion in awarding custody or  
86 visitation of a child to a parent if such parent or any  
87 person residing with such parent has been found guilty of,  
88 or pled guilty to, any such offense.

89 4. The general assembly finds and declares that it is  
90 the public policy of this state that frequent, continuing  
91 and meaningful contact with both parents after the parents  
92 have separated or dissolved their marriage is in the best

93 interest of the child, except for cases where the court  
94 specifically finds that such contact is not in the best  
95 interest of the child, and that it is the public policy of  
96 this state to encourage parents to participate in decisions  
97 affecting the health, education and welfare of their  
98 children, and to resolve disputes involving their children  
99 amicably through alternative dispute resolution. In order  
100 to effectuate these policies, the court shall determine the  
101 custody arrangement which will best assure both parents  
102 participate in such decisions and have frequent, continuing  
103 and meaningful contact with their children so long as it is  
104 in the best interests of the child.

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

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

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

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

120 (4) Sole custody to either parent; or

121 (5) Third-party custody or visitation:

122 (a) When the court finds that each parent is unfit,  
123 unsuitable, or unable to be a custodian, or the welfare of  
124 the child requires, and it is in the best interests of the  
125 child, then custody, temporary custody or visitation may be

126 awarded to a person related by consanguinity or affinity  
127 within the second degree to the child. If no person related  
128 to the child by consanguinity or affinity within the second  
129 degree is willing to accept custody and deemed by the court  
130 to be suitable and able to provide an adequate and stable  
131 environment for the child, then the court may award custody  
132 to any other person or persons deemed by the court to be  
133 suitable and able to provide an adequate and stable  
134 environment for the child. Before the court awards custody,  
135 temporary custody or visitation to a third person under this  
136 subdivision, the court shall make that person a party to the  
137 action;

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

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

153 7. Upon a finding by the court that either parent has  
154 refused to exchange information with the other parent, which  
155 shall include but not be limited to information concerning  
156 the health, education and welfare of the child, the court  
157 shall order the parent to comply immediately and to pay the  
158 prevailing party a sum equal to the prevailing party's cost

159 associated with obtaining the requested information, which  
160 shall include but not be limited to reasonable attorney's  
161 fees and court costs.

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

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

178 10. After August 28, 2016, every court order  
179 establishing or modifying custody or visitation shall  
180 include the following language: "In the event of  
181 noncompliance with this order, the aggrieved party may file  
182 a verified motion for contempt. If custody, visitation, or  
183 third-party custody is denied or interfered with by a parent  
184 or third party without good cause, the aggrieved person may  
185 file a family access motion with the court stating the  
186 specific facts that constitute a violation of the custody  
187 provisions of the judgment of dissolution, legal separation,  
188 or judgment of paternity. The circuit clerk will provide  
189 the aggrieved party with an explanation of the procedures  
190 for filing a family access motion and a simple form for use  
191 in filing the family access motion. A family access motion

192 does not require the assistance of legal counsel to prepare  
193 and file.".

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

203         12. Unless a parent has been denied custody rights  
204 pursuant to this section or visitation rights under section  
205 452.400, both parents shall have access to records and  
206 information pertaining to a minor child including, but not  
207 limited to, medical, dental, and school records. If the  
208 parent without custody has been granted restricted or  
209 supervised visitation because the court has found that the  
210 parent with custody or any child has been the victim of  
211 domestic violence, as defined in section 455.010, by the  
212 parent without custody, the court may order that the reports  
213 and records made available pursuant to this subsection not  
214 include the address of the parent with custody or the  
215 child. A court shall order that the reports and records  
216 made available under this subsection not include the address  
217 of the parent with custody if the parent with custody is a  
218 participant in the address confidentiality program under  
219 section 589.663. Unless a parent has been denied custody  
220 rights pursuant to this section or visitation rights under  
221 section 452.400, any judgment of dissolution or other  
222 applicable court order shall specifically allow both parents  
223 access to such records and reports.

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

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

244           15. If the court finds that domestic violence or abuse  
245 as defined in section 455.010 has occurred, the court shall  
246 make specific findings of fact to show that the custody or  
247 visitation arrangement ordered by the court best protects  
248 the child and the parent or other family or household member  
249 who is the victim of domestic violence, as defined in  
250 section 455.010, and any other children for whom such parent  
251 has custodial or visitation rights from any further harm.";  
252 and

253           Further amend the title and enacting clause accordingly.