

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 862, Page 1, Section TITLE, Lines 3-4,

2 by striking "money held by the children's division for the
3 benefit of a child" and inserting in lieu thereof the
4 following: "child protection"; and

5 Further amend said bill, page 5, Section 210.560, line
6 149, by inserting after all of said line the following:

7 "452.375. 1. As used in this chapter, unless the
8 context clearly indicates otherwise:

9 (1) "Custody" means joint legal custody, sole legal
10 custody, joint physical custody or sole physical custody or
11 any combination thereof;

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

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

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

29 2. The court shall determine custody in accordance
30 with the best interests of the child. There shall be a
31 rebuttable presumption that an award of equal or
32 [approximately] substantially equal parenting time to each
33 parent is in the best interests of the child. Such
34 presumption is rebuttable only by a preponderance of the
35 evidence in accordance with all relevant factors, including,
36 but not limited to, the factors contained in subdivisions
37 (1) to [(8)] (9) of this subsection. The presumption may be
38 rebutted if the court finds that the parents have reached an
39 agreement on all issues related to custody, or if the court
40 finds that a pattern of domestic violence has occurred as
41 set out in subdivision [(6)] (7) of this subsection. When
42 the parties have not reached an agreement on all issues
43 related to custody, the court shall consider all relevant
44 factors and enter written findings of fact and conclusions
45 of law, including, but not limited to, the following:

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

48 (2) The needs of the child for a frequent, continuing
49 and meaningful relationship with both parents and the
50 ability and willingness of parents to actively perform their
51 functions as mother and father for the needs of the child;

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

55 (4) Which parent is more likely to allow the child
56 frequent, continuing and meaningful contact with the other
57 parent and the willingness and ability of parents to
58 cooperate in the rearing of their child, to maximize sharing

59 information and minimize exposure of the child to parental
60 conflict, and to utilize methods for resolving disputes
61 regarding any major decision concerning the life of the
62 child;

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

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

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

90 [(7) The intention of either parent to relocate the
91 principal residence of the child; and]

92 (8) [The unobstructed input of a child, free of
93 coercion and manipulation, as to the child's custodial
94 arrangement] The distance between the residences of the
95 parents seeking custody, including consideration of any
96 relocation 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 consistent with the provisions of subsection 2 of this
145 section, and, in so doing, the court shall determine the
146 custody arrangement which will best assure both parents
147 participate in such decisions and have frequent, continuing
148 and meaningful contact with their children so long as it is
149 in the best interests of the child.

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

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

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

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

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

165 (4) Sole custody to either parent; or

166 (5) Third-party custody or visitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

296 Further amend the title and enacting clause accordingly.