

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 862
AN ACT

To repeal sections 210.201, 210.211, 210.221, 210.252, 210.275, 210.560, 210.841, 211.038, 211.221, 452.375, and 487.200, RSMo, and to enact in lieu thereof eleven new sections relating to the care of a child.

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

Section A. Sections 210.201, 210.211, 210.221, 210.252, 210.275, 210.560, 210.841, 211.038, 211.221, 452.375, and 487.200, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 210.201, 210.211, 210.221, 210.252, 210.275, 210.560, 210.841, 211.038, 211.221, 452.375, and 487.200, to read as follows:

210.201. As used in sections 210.201 to 210.257, the following terms mean:

(1) "Child", an individual who is under the age of seventeen;

(2) "Child care", care of a child away from his or her home for any part of the twenty-four-hour day for compensation or otherwise. Child care is a voluntary supplement to parental responsibility for the child's protection, development, and supervision;

(3) "Child-care facility" or "child care facility", a house or other place conducted or maintained by any person who advertises or holds himself or herself out as providing child care for any part of the twenty-four-hour day for compensation or otherwise if providing child care to more than:

(a) Six children; or

(b) Three children under two years of age;

18 (4) "Child care provider" or "provider", the person or
19 persons licensed or required to be licensed under section
20 210.221 to establish, conduct, or maintain a child care
21 facility;

22 (5) "Day camp", a program operated by a person or
23 organization between the hours of 6:00 a.m. and 7:00 p.m.,
24 when a local school system is not in session requiring
25 actual pupil attendance, and with the primary function of
26 providing a recreational program for children five years of
27 age or older who are enrolled in kindergarten or any grade
28 above kindergarten, but providing no child care for children
29 under five years of age who are not yet enrolled in
30 kindergarten in the same space or in the same outdoor play
31 area simultaneously;

32 (6) "Montessori school", a child care program that is
33 either accredited by, actively seeking accreditation by, or
34 maintains an active school membership with the American
35 Montessori Society, the Association Montessori
36 Internationale, the International Montessori Counsel, or the
37 Montessori Educational Programs International;

38 (7) "Neighborhood youth development program", as
39 described in section 210.278;

40 (8) "Nursery school", a program operated by a person
41 or an organization with the primary function of providing an
42 educational program for preschool-age children for no more
43 than four hours per day per child;

44 (9) "Person", any individual, firm, corporation,
45 partnership, association, agency, or an incorporated or
46 unincorporated organization regardless of the name used;

47 (10) "Religious organization", a church, synagogue or
48 mosque; an entity that has or would qualify for federal tax-
49 exempt status as a nonprofit religious organization under
50 Section 501(c) of the Internal Revenue Code; or an entity

51 whose real estate on which the child-care facility is
52 located is exempt from taxation because it is used for
53 religious purposes;

54 (11) "School-age child", any child five years of age
55 or older who is in kindergarten or above;

56 (12) "School system", a program established primarily
57 for education and that meets the following criteria:

58 (a) Provides education in at least the first to the
59 sixth grade; and

60 (b) Provides evidence that the school system's records
61 will be accepted by a public or private school for the
62 transfer of any student;

63 [(12)] (13) "Summer camp", a program operated from May
64 to September by a person or organization with the primary
65 function of providing a summer recreational program for
66 children five years of age or older and providing no child
67 care for children under five years of age in the same space
68 or in the same outdoor play area simultaneously.

210.211. 1. It shall be unlawful for any person to
2 establish, maintain or operate a child-care facility for
3 children, or to advertise or hold himself or herself out as
4 being able to perform any of the services as defined in
5 section 210.201, without having in effect a written license
6 granted by the department of elementary and secondary
7 education; except that nothing in sections 210.203 to
8 210.245 shall apply to:

9 (1) Any person who is caring for six or fewer
10 children, including a maximum of three children under the
11 age of two, at the same physical address. For purposes of
12 this subdivision, children who live in the caregiver's home
13 and who are eligible for enrollment in a public
14 kindergarten, elementary, or high school shall not be
15 considered in the total number of children being cared for;

16 (2) Any person who receives free of charge, and not as
17 a business, for periods not exceeding ninety consecutive
18 days, as bona fide, occasional and personal guests the child
19 or children of personal friends of such person, and who
20 receives custody of no other unrelated child or children;

21 (3) Any graded boarding school that is conducted in
22 good faith primarily to provide education;

23 (4) Any summer or day camp that is conducted in good
24 faith primarily to provide recreation;

25 (5) Any hospital, sanitarium, or home that is
26 conducted in good faith primarily to provide medical
27 treatment or nursing or convalescent care for children;

28 (6) Any residential facility or day program licensed
29 by the department of mental health under sections 630.705 to
30 630.760 that provides care, treatment, and habilitation
31 exclusively to children who have a primary diagnosis of
32 mental disorder, mental illness, intellectual disability, or
33 developmental disability, as those terms are defined in
34 section 630.005;

35 (7) Any school system as defined in section 210.201;

36 (8) Any Montessori school as defined in section
37 210.201;

38 (9) Any business that operates a child care program
39 for the convenience of its customers or its employees if the
40 following conditions are met:

41 (a) The business provides child care for customers' or
42 employees' children for no more than four hours per day; and

43 (b) Customers or employees remain on site while their
44 children are being cared for by the business establishment;

45 (10) Any home school as defined in section 167.031;

46 (11) Any religious organization academic preschool or
47 kindergarten for four- and five-year-old children;

48 (12) Any weekly Sunday or Sabbath school, a vacation
49 bible school, or child care made available while the parents
50 or guardians are attending worship services or other
51 meetings and activities conducted or sponsored by a
52 religious organization;

53 (13) Any neighborhood youth development program under
54 section 210.278;

55 (14) Any program serving only children enrolled in
56 grade six or above;

57 (15) Any religious organization elementary or
58 secondary school;

59 [(15)] (16) Any private organization elementary or
60 secondary school system providing child care to children
61 younger than school age. If a facility or program is exempt
62 from licensure based upon this exception, such facility or
63 program shall submit documentation annually to the
64 department to verify its licensure-exempt status;

65 [(16)] (17) Any nursery school as defined in section
66 210.201; and

67 [(17)] (18) Any child care facility maintained or
68 operated under the exclusive control of a religious
69 organization. If a nonreligious organization having as its
70 principal purpose the provision of child care services
71 enters into an arrangement with a religious organization for
72 the maintenance or operation of a child care facility, the
73 facility is not under the exclusive control of the religious
74 organization.

75 2. Notwithstanding the provisions of subsection 1 of
76 this section, no child-care facility shall be exempt from
77 licensure if such facility receives any state or federal
78 funds for providing care for children, except for federal
79 funds for those programs which meet the requirements for
80 participation in the Child and Adult Care Food Program

81 pursuant to 42 U.S.C. Section 1766. Grants to parents for
82 child care pursuant to sections 210.201 to 210.257 shall not
83 be construed to be funds received by a person or facility
84 listed in subdivisions (1) and [(17)] (18) of subsection 1
85 of this section.

86 3. Every child care facility shall disclose the
87 licensure status of the facility to the parents or guardians
88 of children for which the facility provides care. No child
89 care facility exempt from licensure shall represent to any
90 parent or guardian of children for which the facility
91 provides care that the facility is licensed when such
92 facility is in fact not licensed. A parent or guardian
93 utilizing an unlicensed child care facility shall sign a
94 written notice indicating he or she is aware of the
95 unlicensed status of the facility. The facility shall keep
96 a copy of this signed written notice on file. All child
97 care facilities shall provide the parent or guardian
98 enrolling a child in the facility with a written explanation
99 of the disciplinary philosophy and policies of the child
100 care facility.

101 4. Up to two children who are five years of age or
102 older and who are related within the third degree of
103 consanguinity or affinity to, adopted by, or under court
104 appointed guardianship or legal custody of a child care
105 provider who is responsible for the daily operation of a
106 licensed family child care home that is organized as a
107 corporation, association, firm, partnership, limited
108 liability company, sole proprietorship, or any other type of
109 business entity in this state shall not be included in the
110 number of children counted toward the maximum number of
111 children for which the family child care home is licensed
112 under section 210.221. If more than one member of the
113 corporation, association, firm, partnership, limited

114 liability company, or other business entity is responsible
115 for the daily operation of the licensed family child care
116 home, then the related children of only one such member
117 shall be excluded. A family child care home caring for
118 children not counted in the maximum number of children, as
119 permitted under this subsection, shall disclose this to
120 parents or guardians on the written notice required under
121 subsection 3 of this section. If a family child care home
122 begins caring for children not counted in the maximum number
123 of children after a parent or guardian has signed the
124 written notice required under subsection 3 of this section,
125 the family child care home shall provide a separate notice
126 to the parent or guardian that the family child care home is
127 caring for children not counted in the maximum number of
128 children for which the family child care home is licensed
129 and shall keep a copy of the signed notice on file.

130 5. Nothing in this section shall prevent the
131 department from enforcing licensing regulations promulgated
132 under this chapter, including, but not limited to,
133 supervision requirements and capacity limitations based on
134 the amount of child care space available.

210.221. 1. The department of elementary and
2 secondary education shall have the following powers and
3 duties:

4 (1) After inspection, to grant licenses to persons to
5 operate child-care facilities if satisfied as to the good
6 character and intent of the applicant and that such
7 applicant is qualified and equipped to render care or
8 service conducive to the welfare of children. Each license
9 shall specify its effective dates and whether it is
10 temporary, the kind of child-care services the licensee is
11 authorized to perform, the number of children that can be
12 received or maintained, and their ages;

13 (2) To inspect the conditions of the homes and other
14 places in which the applicant operates a child-care
15 facility, inspect their books and records, premises and
16 children being served, examine their officers and agents,
17 deny, suspend, place on probation or revoke the license of
18 such persons as fail to obey the provisions of sections
19 210.201 to 210.245 or the rules and regulations made by the
20 department of elementary and secondary education. The
21 commissioner also may revoke or suspend a license when the
22 licensee surrenders the license;

23 (3) To promulgate and issue rules and regulations the
24 department deems necessary or proper in order to establish
25 standards of service and care to be rendered by such
26 licensees to children. No rule or regulation promulgated by
27 the department shall in any manner restrict or interfere
28 with any religious instruction, philosophies or ministries
29 provided by the facility and shall not apply to facilities
30 operated by religious organizations which are not required
31 to be licensed;

32 (4) To approve training concerning the safe sleep
33 recommendations of the American Academy of Pediatrics in
34 accordance with section 210.223; [and]

35 (5) To determine what records shall be kept by such
36 persons and the form thereof, and the methods to be used in
37 keeping such records, and to require reports to be made to
38 the department at regular intervals; and

39 (6) To grant a temporary child care license to a child
40 care provider upon submission of a complete license
41 application to expand an existing site or to add a new
42 location; provided, that the child care provider also
43 submits an approved fire safety inspection and an approved
44 sanitation inspection for the site being expanded or added.

45 2. Any child-care facility may request a variance from
46 a rule or regulation promulgated pursuant to this section.
47 The request for a variance shall be made in writing to the
48 department of elementary and secondary education and shall
49 include the reasons the facility is requesting the
50 variance. The department shall approve any variance request
51 that does not endanger the health or safety of the children
52 served by the facility. The burden of proof at any appeal
53 of a disapproval of a variance application shall be with the
54 department of elementary and secondary education. Local
55 inspectors may grant a variance, subject to approval by the
56 department of elementary and secondary education.

57 3. The department shall deny, suspend, place on
58 probation or revoke a license if it receives official
59 written notice that the local governing body has found that
60 license is prohibited by any local law related to the health
61 and safety of children. The department may deny an
62 application for a license if the department determines that
63 a home or other place in which an applicant would operate a
64 child-care facility is located within one thousand feet of
65 any location where a person required to register under
66 sections 589.400 to 589.425 either resides, as that term is
67 defined in subsection 3 of section 566.147, or regularly
68 receives treatment or services, excluding any treatment or
69 services delivered in a hospital, as that term is defined in
70 section 197.020, or in facilities owned or operated by a
71 hospital system. The department may, after inspection, find
72 the licensure, denial of licensure, suspension or revocation
73 to be in the best interest of the state.

74 4. Any rule or portion of a rule, as that term is
75 defined in section 536.010, that is created under the
76 authority delegated in sections 210.201 to 210.245 shall
77 become effective only if it complies with and is subject to

78 all of the provisions of chapter 536 and, if applicable,
79 section 536.028. All rulemaking authority delegated prior
80 to August 28, 1999, is of no force and effect and repealed.
81 Nothing in this section shall be interpreted to repeal or
82 affect the validity of any rule filed or adopted prior to
83 August 28, 1999, if it fully complied with all applicable
84 provisions of law. This section and chapter 536 are
85 nonseverable and if any of the powers vested with the
86 general assembly pursuant to chapter 536 to review, to delay
87 the effective date, or to disapprove and annul a rule are
88 subsequently held unconstitutional, then the grant of
89 rulemaking authority and any rule proposed or adopted after
90 August 28, 1999, shall be invalid and void.

210.252. 1. All buildings and premises used by a
2 child-care facility to care for more than six children
3 except those exempted from the licensing provisions of the
4 department of elementary and secondary education pursuant to
5 subdivisions (1) to ~~[(15)]~~ (16) of subsection 1 of section
6 210.211, shall be inspected annually for fire and safety by
7 the state fire marshal, the marshal's designee or officials
8 of a local fire district and for health and sanitation by
9 the department of elementary and secondary education or the
10 department's designee, including officials of the department
11 of health and senior services, or officials of the local
12 health department. Evidence of compliance with the
13 inspections required by this section shall be kept on file
14 and available to parents of children enrolling in the child-
15 care facility.

16 2. Local inspection of child-care facilities may be
17 accomplished if the standards employed by local personnel
18 are substantially equivalent to state standards and local
19 personnel are available for enforcement of such standards.

20 3. Any child-care facility may request a variance from
21 a rule or regulation promulgated pursuant to this section.
22 The request for a variance shall be made in writing to the
23 department of elementary and secondary education and shall
24 include the reasons the facility is requesting the
25 variance. The department shall approve any variance request
26 that does not endanger the health or safety of the children
27 served by the facility. The burden of proof at any appeal
28 of a disapproval of a variance application shall be with the
29 department of elementary and secondary education. Local
30 inspectors may grant a variance, subject to approval by the
31 department of elementary and secondary education.

32 4. The department of elementary and secondary
33 education shall administer the provisions of sections
34 210.252 to 210.256, with the cooperation of the state fire
35 marshal, the department of health and senior services, local
36 fire departments and local health agencies.

37 5. The department of elementary and secondary
38 education shall promulgate rules and regulations to
39 implement and administer the provisions of sections 210.252
40 to 210.256. Such rules and regulations shall provide for
41 the protection of children in all child-care facilities
42 whether or not such facility is subject to the licensing
43 provisions of sections 210.201 to 210.245.

44 6. The department of health and senior services, after
45 consultation with the department of elementary and secondary
46 education, may promulgate rules and regulations to implement
47 and administer the provisions of this section related to
48 sanitation requirements. Such rules and regulations shall
49 provide for the protection of children in all child-care
50 facilities whether or not such facility is subject to the
51 licensing provisions of sections 210.201 to 210.245.

52 7. Any rule or portion of a rule, as that term is
53 defined in section 536.010, that is created under the
54 authority delegated in sections 210.252 to 210.256 shall
55 become effective only if it complies with and is subject to
56 all of the provisions of chapter 536 and, if applicable,
57 section 536.028. All rulemaking authority delegated prior
58 to August 28, 1999, is of no force and effect and repealed.
59 Nothing in this section shall be interpreted to repeal or
60 affect the validity of any rule filed or adopted prior to
61 August 28, 1999, if it fully complied with all applicable
62 provisions of law. This section and chapter 536 are
63 nonseverable and if any of the powers vested with the
64 general assembly pursuant to chapter 536 to review, to delay
65 the effective date or to disapprove and annul a rule are
66 subsequently held unconstitutional, then the grant of
67 rulemaking authority and any rule proposed or adopted after
68 August 28, 1999, shall be invalid and void.

 210.275. Any program licensed by the department of
2 elementary and secondary education pursuant to this chapter
3 providing child care to only school-age children [that is
4 located and operated on elementary or secondary school
5 property] shall comply with the child-care licensure
6 provisions in this chapter; except that, for safety, health
7 and fire purposes, all buildings and premises for any such
8 programs shall be deemed to be in compliance with the child-
9 care licensure provisions in this chapter.

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

3 (1) "Child", any child placed in the legal custody of
4 the division under chapter 211;

5 (2) "Division", the children's division of the
6 department of social services of the state of Missouri;

7 (3) "Money", any legal tender, note, draft,
8 certificate of deposit, stocks, bond or check;

9 (4) "Unmet needs", needs for which the division is not
10 required by law to provide financial support, such as:

11 (a) Tuition, tutoring, and training, including
12 application fees, books, equipment, and testing;

13 (b) Transportation to work, training, education, or to
14 maintain family connections;

15 (c) Housing expenses if the child is preparing to
16 leave the custody of the division for reasons relating to
17 the child's age; and

18 (d) Technology, special clothing needs, instruments,
19 books, and other equipment relating to the child's hobbies
20 and interests;

21 (5) "Vested right", a legal right that is more than a
22 mere expectancy and may be reduced to a present monetary
23 value.

24 2. The child, the child's parents, any fiduciary or
25 any representative payee holding or receiving money that are
26 vested rights solely for or on behalf of a child are jointly
27 and severally liable for funds expended by the division to
28 or on behalf of the child. The liability of any person,
29 except a parent of the child, shall be limited to the money
30 received in his or her fiduciary or representative
31 capacity. The Missouri state government shall not require a
32 trustee or a financial institution acting as a trustee to
33 exercise any discretionary powers in the operation of a
34 trust.

35 3. (1) The division may accept an appointment to
36 serve as representative payee or fiduciary, or in a similar
37 capacity for payments to a child under any public or private
38 benefit arrangement. Money so received shall be governed by

39 this section to the extent that laws and regulations
40 governing payment of such benefits provide otherwise.

41 (2) In the case of benefits administered by the U.S.
42 Railroad Retirement Board, the Social Security
43 Administration, or the Veterans Administration, the division
44 shall determine whether the child is receiving or otherwise
45 eligible to receive such benefits within sixty days after
46 the child is placed in the division's custody. If the
47 division determines that the child is eligible or may be
48 eligible for the benefits, then the division shall apply for
49 the benefits on behalf of the child. If the child is
50 already receiving the benefits before being placed in the
51 division's custody or if the division applies for the
52 benefits on behalf of the child, then the division shall
53 identify, in consultation with the child and the child's
54 legal representative, a representative payee in accordance
55 with 20 CFR 404.2021 and 20 CFR 416.621 and shall apply to
56 become the representative payee only if no other suitable
57 candidate is available. The division shall annually review
58 if someone other than the division is available, if in the
59 best interests of the child, to apply to assume the role of
60 representative payee.

61 (3) The division shall annually review cases of
62 children in the division's custody to determine whether a
63 child may have become eligible for benefits after the
64 division's initial assessment.

65 4. Any money received by the division on behalf of a
66 child shall be accounted for in the name of the child. Any
67 money in the account of a child **[may]** shall not be expended
68 by the division for care or services for the child,
69 including, but not limited to, foster care maintenance
70 payments, as defined in 42 U.S.C. Section 675(4)(A), and any
71 special allowances or expenses established by the division

72 for the care of children in the division's custody for a
73 child of a similar age; provided, that the division may use
74 the benefits administered by the U.S. Railroad Retirement
75 Board, the Social Security Administration, or the Veterans
76 Administration for the child's unmet needs beyond what the
77 division is obligated, required, or agrees to pay. The
78 division shall by rule adopted under chapter 536 establish
79 procedures for the accounting of the money and the
80 protection of the money against theft, loss or
81 misappropriation.

82 5. The division shall deposit money with a financial
83 institution. Any earnings attributable to the money in the
84 account of a child shall be credited to that child's
85 account. The division shall receive bids from banking
86 corporations, associations or trust companies which desire
87 to be selected as depositories of children's moneys for the
88 division. The child's account shall be established in a
89 manner consistent with federal and state asset and resource
90 limits and may include a special-needs trust, a pooled
91 special-needs trust, an ABLE account, as defined in section
92 209.600, or any other trust account determined not to
93 interfere with asset limitations for any state or federal
94 benefit program for which the child may be eligible.

95 6. The division may accept funds which a parent,
96 guardian or other person wishes to provide for the use or
97 benefit of the child. The use and deposit of such funds
98 shall be governed by this section and any additional
99 directions given by the provider of the funds.

100 7. Each child for whose benefit funds have been
101 received by the division and the guardian ad litem of such
102 child shall be furnished annually with a statement listing
103 all transactions involving the funds which have been

104 deposited on the child's behalf, to include each receipt and
105 disbursement.

106 8. The division shall use all proper diligence to
107 dispose of the balance of money accumulated in the child's
108 account when the child is released from the care and custody
109 of the division or the child dies. When the child is
110 deceased the balance shall be disposed of as provided by law
111 for descent and distribution. If, after the division has
112 diligently used such methods and means as considered
113 reasonable to refund such funds, there shall remain any
114 money, the owner of which is unknown to the division, or if
115 known, cannot be located by the division, in each and every
116 such instance such money shall escheat and vest in the state
117 of Missouri, and the director and officials of the division
118 shall pay the same to the state director of the department
119 of revenue, taking a receipt therefor, who shall deposit the
120 money in the state treasury to be credited to a fund to be
121 designated as "escheat".

122 9. Within five years after money has been paid into
123 the state treasury, any person who appears and claims the
124 money may file a petition in the circuit court of Cole
125 County, Missouri, stating the nature of the claim and
126 praying that such money be paid to him. A copy of the
127 petition shall be served upon the director of the department
128 of revenue who shall file an answer to the same. The court
129 shall proceed to examine the claim and the allegations and
130 proof, and if it finds that such person is entitled to any
131 money so paid into the state treasury, it shall order the
132 commissioner of administration to issue a warrant on the
133 state treasurer for the amount of such claim, but without
134 interest or costs. A certified copy of the order shall be
135 sufficient voucher for issuing a warrant; provided, that

136 either party may appeal from the decision of the court in
137 the same manner as provided by law in other civil actions.

138 10. All moneys paid into the state treasury under the
139 provisions of this section after remaining there unclaimed
140 for five years shall escheat and vest absolutely in the
141 state and be credited to the state treasury, and all persons
142 shall be forever barred and precluded from setting up title
143 or claim to any such funds.

144 11. Nothing in this section shall be deemed to apply
145 to funds regularly due the state of Missouri for the support
146 and maintenance of children in the care and custody of the
147 division or collected by the state of Missouri as
148 reimbursement for state funds expended on behalf of the
149 child.

210.841. 1. The judgment or order of the court
2 determining the existence or nonexistence of the parent and
3 child relationship is determinative for all purposes.

4 2. If the judgment or order of the court varies with
5 the child's birth certificate, the court shall order that an
6 amended birth registration be made pursuant to section
7 210.849.

8 3. The judgment or order shall contain the Social
9 Security number of each party and may contain any other
10 provision directed against the appropriate party to the
11 proceeding concerning:

12 (1) The duty of support;

13 (2) The custody and guardianship of the child;

14 (3) Visitation privileges with the child;

15 (4) The furnishing of bond or other security for the
16 payment of the judgment; or

17 (5) Any matter in the best interest of the child. The
18 judgment or order may direct the father to pay the

19 reasonable expenses of the mother's pregnancy and
20 confinement.

21 4. Support judgments or orders ordinarily shall be for
22 periodic payments. In the best interests of the child, a
23 lump sum payment or the purchase of an annuity may be
24 ordered in lieu of periodic payments of support. The court
25 may limit the father's liability for past support of the
26 child to the proportion of the expenses already incurred
27 that the court deems just.

28 5. There shall be a rebuttable presumption that the
29 amount of support that would result from the application of
30 supreme court rule 88.01 is the correct amount of child
31 support to be awarded. A written finding or specific
32 finding on the record that the application of supreme court
33 rule 88.01 would be unjust or inappropriate in a particular
34 case, after considering all relevant factors including the
35 factors in subsection 6 of this section, shall be sufficient
36 to rebut the presumption in the case.

37 6. In determining the amount to be paid by a parent
38 for support of the child and the period during which the
39 duty of support is owed, the court shall consider all
40 relevant facts, including:

- 41 (1) The needs of the child;
- 42 (2) The standard of living and circumstances of the
43 parents;
- 44 (3) The relative financial means of the parents;
- 45 (4) The earning ability of the parents;
- 46 (5) The need and capacity of the child for education,
47 including higher education;
- 48 (6) The age of the child;
- 49 (7) The financial resources and earning capacity of
50 the child;

51 (8) The responsibility of the parents for the support
52 of other children;

53 (9) The value of the services contributed by the
54 custodial parent; and

55 (10) The standard of living and circumstances of the
56 family prior to the dissolution of marriage of parents or
57 during the period of cohabitation of the parents.

58 7. Any award for periodic child support may be
59 retroactive to the date of service of the original petition
60 upon the obligor.

61 8. The court shall apply the provisions of subsection
62 3 of section 452.375 when determining whether a party shall
63 have custody, guardianship, or unsupervised visitation of a
64 child under this section.

211.038. 1. A child under the jurisdiction of the
2 juvenile court shall not be reunited with a parent or placed
3 in a home in which the parent or any person residing in the
4 home has been found guilty of any of the following offenses
5 when a child was the victim:

6 (1) A felony violation of section 566.030, 566.031,
7 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,
8 566.068, 566.069, 566.071, 566.083, 566.100, 566.101,
9 566.111, 566.151, 566.203, 566.206, 566.209, 566.211, or
10 566.215;

11 (2) A violation of section 568.020;

12 (3) Abuse of a child under section 568.060 when such
13 abuse is sexual in nature;

14 (4) A violation of section 568.065;

15 (5) A violation of section 573.200;

16 (6) A violation of section 573.205; or

17 (7) A violation of section 568.175;

18 (8) A violation of section 566.040, 566.070, or

19 566.090 as such sections existed prior to August 28, 2013; or

20 (9) A violation of section 566.212, 568.080, or
21 568.090 as such sections existed prior to January 1, 2017.

22 2. For all other violations of offenses in chapters
23 566 and 568 not specifically listed in subsection 1 of this
24 section or for a violation of an offense committed in
25 another state when a child is the victim that would be a
26 violation of chapter 566 or 568 if committed in Missouri,
27 the juvenile court may exercise its discretion regarding the
28 placement of a child under the jurisdiction of the juvenile
29 court in a home in which a parent or any person residing in
30 the home has been found guilty of, or pled guilty to, any
31 such offense.

32 3. If the juvenile court determines that a child has
33 abused another child, such abusing child shall be prohibited
34 from returning to or residing in any residence located
35 within one thousand feet of the residence of the abused
36 child, or any child care facility or school that the abused
37 child attends, until the abused child reaches eighteen years
38 of age. The prohibitions of this subsection shall not apply
39 where the alleged abuse occurred between siblings or
40 children living in the same home.

41 4. The juvenile court shall not refuse to reunify or
42 otherwise place a child with a parent who, or in a home in
43 which the parent or any person residing in the home, is
44 utilizing medication-assisted treatment, as such term is
45 defined in section 487.200, for opioid or other substance
46 misuse or dependence because of the use of such treatment or
47 otherwise require such parent or person to cease utilizing
48 or complete such treatment prior to reunification or
49 placement of the child.

211.221. In placing a child in or committing a child
2 to the custody of an individual or of a private agency or
3 institution, the court, children's division, or any child-

4 placing agency contracting with the state to provide foster
5 care services shall, whenever practicable, select either a
6 person, or an agency or institution governed by persons of
7 the same religious faith as that of the parents of such
8 child, or in case of a difference in the religious faith of
9 the parents, then of the religious faith of the child or if
10 the religious faith of the child is not ascertainable, then
11 of the faith of either of the parents.

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)] (9) 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)] (7) of this subsection. When the parties
35 have not reached an agreement on all issues related to
36 custody, the court shall consider all relevant factors and
37 enter written findings of fact and conclusions of law,
38 including, 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 and the willingness and ability of parents to
51 cooperate in the rearing of their child, to maximize sharing
52 information and minimize exposure of the child to parental
53 conflict, and to utilize methods for resolving disputes
54 regarding any major decision concerning the life of the
55 child;

56 (5) The child's adjustment to the child's home,
57 school, and community and the child's physical, emotional,
58 educational, and other needs. The fact that a parent sends

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

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

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

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

85 (8) [The unobstructed input of a child, free of
86 coercion and manipulation, as to the child's custodial
87 arrangement] The distance between the residences of the
88 parents seeking custody, including consideration of any
89 relocation which has occurred or an intent to relocate; and

90 (9) The reasonable input of the child as to the
91 child's custodian, if the court deems the child to be of

92 sufficient ability, age, and maturity to express an
93 independent, reliable preference and that such input is in
94 the best interests of the child and will not be emotionally
95 damaging, with due consideration of the influence that a
96 parent may have on the child's input.

97 3. (1) In any court proceedings relating to custody
98 of a child, the court shall not award custody or
99 unsupervised visitation of a child to a parent if such
100 parent or any person residing with such parent has been
101 found guilty of, or pled guilty to, any of the following
102 offenses when a child was the victim:

103 (a) A felony violation of section 566.030, 566.031,
104 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,
105 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,
106 566.203, 566.206, 566.209, 566.211, or 566.215;

107 (b) A violation of section 568.020;

108 (c) A violation of subdivision (2) of subsection 1 of
109 section 568.060;

110 (d) A violation of section 568.065;

111 (e) A violation of section 573.200;

112 (f) A violation of section 573.205; or

113 (g) A violation of section 568.175.

114 (2) For all other violations of offenses in chapters
115 566 and 568 not specifically listed in subdivision (1) of
116 this subsection or for a violation of an offense committed
117 in another state when a child is the victim that would be a
118 violation of chapter 566 or 568 if committed in Missouri,
119 the court may exercise its discretion in awarding custody or
120 visitation of a child to a parent if such parent or any
121 person residing with such parent has been found guilty of,
122 or pled guilty to, any such offense.

123 4. The general assembly finds and declares that it is
124 the public policy of this state that frequent, continuing

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

143 5. Prior to awarding the appropriate custody
144 arrangement in the best interest of the child, the court
145 shall consider each of the following as follows:

146 (1) Joint physical and joint legal custody to both
147 parents, which shall not be denied solely for the reason
148 that one parent opposes a joint physical and joint legal
149 custody award. The residence of one of the parents shall be
150 designated as the address of the child for mailing and
151 educational purposes;

152 (2) Joint physical custody with one party granted sole
153 legal custody. The residence of one of the parents shall be
154 designated as the address of the child for mailing and
155 educational purposes;

156 (3) Joint legal custody with one party granted sole
157 physical custody;

158 (4) Sole custody to either parent; or

159 (5) Third-party custody or visitation:

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

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

176 6. If the parties have not agreed to a custodial
177 arrangement, or the court determines such arrangement is not
178 in the best interest of the child, the court shall include a
179 written finding in the judgment or order based on the public
180 policy in subsection 4 of this section and each of the
181 factors listed in subdivisions (1) to ~~[(8)]~~ (9) of
182 subsection 2 of this section detailing the specific relevant
183 factors that made a particular arrangement in the best
184 interest of the child. If a proposed custodial arrangement
185 is rejected by the court, the court shall include a written
186 finding in the judgment or order detailing the specific
187 relevant factors resulting in the rejection of such
188 arrangement.

189 7. Upon a finding by the court that either parent has
190 refused to exchange information with the other parent, which

191 shall include but not be limited to information concerning
192 the health, education and welfare of the child, the court
193 shall order the parent to comply immediately and to pay the
194 prevailing party a sum equal to the prevailing party's cost
195 associated with obtaining the requested information, which
196 shall include but not be limited to reasonable attorney's
197 fees and court costs.

198 8. As between the parents of a child, no preference
199 may be given to either parent in the awarding of custody
200 because of that parent's age, sex, or financial status, nor
201 because of the age or sex of the child. The court shall not
202 presume that a parent, solely because of his or her sex, is
203 more qualified than the other parent to act as a joint or
204 sole legal or physical custodian for the child.

205 9. Any judgment providing for custody shall include a
206 specific written parenting plan setting forth the terms of
207 such parenting plan arrangements specified in subsection 8
208 of section 452.310. Such plan may be a parenting plan
209 submitted by the parties pursuant to section 452.310 or, in
210 the absence thereof, a plan determined by the court, but in
211 all cases, the custody plan approved and ordered by the
212 court shall be in the court's discretion and shall be in the
213 best interest of the child.

214 10. After August 28, 2016, every court order
215 establishing or modifying custody or visitation shall
216 include the following language: "In the event of
217 noncompliance with this order, the aggrieved party may file
218 a verified motion for contempt. If custody, visitation, or
219 third-party custody is denied or interfered with by a parent
220 or third party without good cause, the aggrieved person may
221 file a family access motion with the court stating the
222 specific facts that constitute a violation of the custody
223 provisions of the judgment of dissolution, legal separation,

224 or judgment of paternity. The circuit clerk will provide
225 the aggrieved party with an explanation of the procedures
226 for filing a family access motion and a simple form for use
227 in filing the family access motion. A family access motion
228 does not require the assistance of legal counsel to prepare
229 and file."

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

239 12. Unless a parent has been denied custody rights
240 pursuant to this section or visitation rights under section
241 452.400, both parents shall have access to records and
242 information pertaining to a minor child including, but not
243 limited to, medical, dental, and school records. If the
244 parent without custody has been granted restricted or
245 supervised visitation because the court has found that the
246 parent with custody or any child has been the victim of
247 domestic violence, as defined in section 455.010, by the
248 parent without custody, the court may order that the reports
249 and records made available pursuant to this subsection not
250 include the address of the parent with custody or the
251 child. A court shall order that the reports and records
252 made available under this subsection not include the address
253 of the parent with custody if the parent with custody is a
254 participant in the address confidentiality program under
255 section 589.663. Unless a parent has been denied custody
256 rights pursuant to this section or visitation rights under

257 section 452.400, any judgment of dissolution or other
258 applicable court order shall specifically allow both parents
259 access to such records and reports.

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

274 14. An award of joint custody does not preclude an
275 award of child support pursuant to section 452.340 and
276 applicable supreme court rules. The court shall consider
277 the factors contained in section 452.340 and applicable
278 supreme court rules in determining an amount reasonable or
279 necessary for the support of the child.

280 15. If the court finds that domestic violence or abuse
281 as defined in section 455.010 has occurred, the court shall
282 make specific findings of fact to show that the custody or
283 visitation arrangement ordered by the court best protects
284 the child and the parent or other family or household member
285 who is the victim of domestic violence, as defined in
286 section 455.010, and any other children for whom such parent
287 has custodial or visitation rights from any further harm.

487.200. 1. As used in this section, "medication-
2 assisted treatment" means the use of pharmacological

3 medications, in combination with counseling and behavioral
4 therapies, to provide a whole patient approach to the
5 treatment of substance use disorders.

6 2. If a family court participant requires treatment
7 for opioid or other substance misuse or dependence, a family
8 court shall not prohibit such participant from participating
9 in and receiving medication-assisted treatment under the
10 care of a physician licensed in this state to practice
11 medicine. A family court participant shall not be required
12 to refrain from using medication-assisted treatment as a
13 term or condition of successful completion of the family
14 court program.

15 3. A family court participant assigned to a treatment
16 program for opioid or other substance misuse or dependence
17 shall not be in violation of the terms or conditions of the
18 family court on the basis of his or her participation in
19 medication-assisted treatment under the care of a physician
20 licensed in this state to practice medicine.

21 4. A family court shall not require a participant
22 utilizing medication-assisted treatment as part of treatment
23 for opioid or other substance misuse or dependence to cease
24 utilizing the treatment or to otherwise complete the
25 treatment prior to reunification with his or her child.