

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 767 & 1342

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR THOMPSON REHDER.

2840S.03P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 451.040, 451.080, 451.090, 452.355, 452.375, and 452.425, RSMo, and to enact in lieu thereof six new sections relating to marriage, with penalty provisions.

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

Section A. Sections 451.040, 451.080, 451.090, 452.355,
2 452.375, and 452.425, RSMo, are repealed and six new sections
3 enacted in lieu thereof, to be known as sections 451.040,
4 451.080, 451.090, 452.355, 452.375, and 452.425, to read as
5 follows:

451.040. 1. Previous to any marriage in this state, a
2 license for that purpose shall be obtained from the officer
3 authorized to issue the same, and no marriage contracted
4 shall be recognized as valid unless the license has been
5 previously obtained, and unless the marriage is solemnized
6 by a person authorized by law to solemnize marriages.

7 2. Before applicants for a marriage license shall
8 receive a license, and before the recorder of deeds shall be
9 authorized to issue a license, the parties to the marriage
10 shall present an application for the license, duly executed
11 and signed in the presence of the recorder of deeds or their
12 deputy or electronically through an online process. If an

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

13 applicant is unable to sign the application in the presence
14 of the recorder of deeds as a result of the applicant's
15 incarceration or because the applicant has been called or
16 ordered to active military duty out of the state or country,
17 the recorder of deeds may issue a license if:

18 (1) An affidavit or sworn statement is submitted by
19 the incarcerated or military applicant on a form furnished
20 by the recorder of deeds which includes the necessary
21 information for the recorder of deeds to issue a marriage
22 license under this section. The form shall include, but not
23 be limited to, the following:

24 (a) The names of both applicants for the marriage
25 license;

26 (b) The date of birth of the incarcerated or military
27 applicant;

28 (c) An attestation by the incarcerated or military
29 applicant that both applicants are not related;

30 (d) The date the marriage ended if the incarcerated or
31 military applicant was previously married;

32 (e) An attestation signed by the incarcerated or
33 military applicant stating in substantial part that the
34 applicant is unable to appear in the presence of the
35 recorder of deeds as a result of the applicant's
36 incarceration or because the applicant has been called or
37 ordered to active military duty out of the state or country,
38 which will be verified by the professional or official who
39 directs the operation of the jail or prison or the military
40 applicant's military officer, or such professional's or
41 official's designee, and acknowledged by a notary public
42 commissioned by the state of Missouri at the time of
43 verification. However, in the case of an applicant who is
44 called or ordered to active military duty outside Missouri,

45 acknowledgment may be obtained by a notary public who is
46 duly commissioned by a state other than Missouri or by
47 notarial services of a military officer in accordance with
48 the Uniform Code of Military Justice at the time of
49 verification;

50 (2) The completed marriage license application of the
51 incarcerated or military applicant is submitted which
52 includes the applicant's Social Security number; except
53 that, in the event the applicant does not have a Social
54 Security number, a sworn statement by the applicant to that
55 effect; and

56 (3) A copy of a government-issued identification for
57 the incarcerated or military applicant which contains the
58 applicant's photograph. However, in such case the
59 incarcerated applicant does not have such an identification
60 because the jail or prison to which he or she is confined
61 does not issue an identification with a photo his or her
62 notarized application shall satisfy this requirement.

63 3. Each application for a license shall contain the
64 Social Security number of the applicant, provided that the
65 applicant in fact has a Social Security number, or the
66 applicant shall sign a statement provided by the recorder
67 that the applicant does not have a Social Security number.
68 The Social Security number contained in an application for a
69 marriage license shall be exempt from examination and
70 copying pursuant to section 610.024. After the receipt of
71 the application the recorder of deeds shall issue the
72 license, unless one of the parties withdraws the
73 application. The license shall be void after thirty days
74 from the date of issuance.

75 4. Any person violating the provisions of this section
76 shall be deemed guilty of a misdemeanor.

77 5. Common-law marriages shall be null and void.

78 6. Provided, however, that no marriage shall be deemed
79 or adjudged invalid, nor shall the validity be in any way
80 affected for want of authority in any person so solemnizing
81 the marriage pursuant to section 451.100, if consummated
82 with the full belief on the part of the persons, so married,
83 or either of them, that they were lawfully joined in
84 marriage.

85 7. In the event a recorder of deeds utilizes an online
86 process to accept applications for a marriage license or to
87 issue a marriage license and the applicants' identity has
88 not been verified in person, the recorder of deeds shall
89 have a two-step identity verification process or a process
90 that independently verifies the identity of such
91 applicants. Such process shall be adopted as part of any
92 electronic system for marriage licenses if the applicants do
93 not present themselves to the recorder of deeds or his or
94 her designee in person. It shall be the responsibility of
95 the recorder of deeds to ensure any process adopted to allow
96 electronic application or issuance of a marriage license
97 verifies the identities of both applicants. The recorder of
98 deeds shall not accept applications for or issue marriage
99 licenses through the process provided in this subsection
100 unless [both applicants are at least eighteen years of age
101 and] at least one of the applicants is a resident of the
102 county or city not within a county in which the application
103 was submitted.

 451.080. 1. The recorders of the several counties of
2 this state, and the recorder of the city of St. Louis,
3 shall, when applied to by any person legally entitled to a
4 marriage license, issue the same which may be in the
5 following form:

6 State of Missouri)

7)

8 ss.

9)

10 County of _____)

11 This license authorizes any judge, associate
12 circuit judge, licensed or ordained preacher of
13 the gospel, or other person authorized under the
14 laws of this state, to solemnize marriage between
15 A B of _____, county of _____ and state of
16 _____, who is _____ the age of eighteen years,
17 and C D of _____, in the county of _____, state
18 of _____, who is _____ the age of eighteen
19 years.

20 2. [If the man is under eighteen or the woman under
21 eighteen, add the following:

22 The custodial parent or guardian, as the case may
23 be, of the said A B or C D (A B or C D, as the
24 case may require), has given his or her assent to
25 the said marriage.

26 Witness my hand as recorder, with the seal of
27 office hereto affixed, at my office, in _____,
28 the _____ day of _____, 20_____, recorder.

29 3.] On which such license the person solemnizing the
30 marriage shall, within fifteen days after the issuing
31 thereof, make as near as may be the following return, and
32 return such license to the officer issuing the same:

33 State of Missouri)

34)

35 ss.

36)

37 County of _____)

38 This is to certify that the undersigned _____ did
39 at _____, in said county, on the _____ day of
40 _____ A.D. 20_____, unite in marriage the above-
41 named persons.

451.090. 1. No recorder shall issue a license
2 authorizing the marriage of any male or female under
3 [sixteen] **eighteen** years of age [nor shall a license be
4 issued authorizing the marriage of any male or female twenty-
5 one years of age or older to a male or female under eighteen
6 years of age].

7 2. [No recorder shall issue a license authorizing the
8 marriage of any male or female under the age of eighteen
9 years, except with the consent of his or her custodial
10 parent or guardian, which consent shall be given at the
11 time, in writing, stating the residence of the person giving
12 such consent, signed and sworn to before an officer
13 authorized to administer oaths.

14 3.] The recorder shall state in every license whether
15 the parties applying for same[, one or either or both of
16 them,] are of age[, or whether the male is under the age of
17 eighteen years or the female under the age of eighteen
18 years, and if the male is under the age of eighteen years or
19 the female is under the age of eighteen years, the name of
20 the custodial parent or guardian consenting to such
21 marriage]. Applicants shall provide proof of age to the
22 recorder in the form of a certified copy of the applicant's
23 birth certificate, passport, or other government-issued
24 identification, which shall then be documented by the
25 recorder.

452.355. 1. Unless otherwise indicated, the court
2 from time to time after considering all relevant factors
3 including the financial resources of both parties, the
4 merits of the case and the actions of the parties during the
5 pendency of the action, may order a party to pay a
6 reasonable amount for the cost to the other party of
7 maintaining or defending any proceeding pursuant to sections
8 452.300 to 452.415 and for attorney's fees, including sums
9 for legal services rendered and costs incurred prior to the
10 commencement of the proceeding and after entry of a final
11 judgment. The court may order that the amount be paid
12 directly to the attorney, who may enforce the order in the
13 attorney's name.

14 **2. In actions brought to enforce a temporary order or**
15 **final judgment of the court in any proceeding under sections**
16 **452.300 to 452.415, excluding any proceeding described in**
17 **subsection 3 of this section, the court shall order the**
18 **party against whom enforcement is sought, if requested and**
19 **for good cause shown, to pay the cost of the suit to the**
20 **party seeking enforcement, including attorney's fees. The**
21 **court may order that the amount be paid directly to the**
22 **attorney, who may enforce the order in the attorney's name.**

23 3. In any proceeding in which the failure to pay child
24 support pursuant to a temporary order or final judgment is
25 an issue, if the court finds that the obligor has failed,
26 without good cause, to comply with such order or decree to
27 pay the child support, the court shall order the obligor, if
28 requested and for good cause shown, to pay a reasonable
29 amount for the cost of the suit to the obligee, including
30 reasonable sums for legal services. The court may order
31 that the amount be paid directly to the attorney, who may
32 enforce the order in his name.

33 [3.] 4. For purposes of this section, an "obligor" is
34 a person owing a duty of support and an "obligee" is a
35 person to whom a duty of support is owed.

36 [4.] 5. For purposes of this section, "good cause"
37 includes, **but shall not be limited to**, any substantial
38 reason why the obligor is unable to pay the child support as
39 ordered. Good cause does not exist if the obligor purposely
40 maintains his inability to pay.

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.

 452.425. Any court order for the custody of, or
2 visitation with, a child [may] **shall** include a provision
3 that the sheriff or other law enforcement officer shall
4 enforce the rights of any person to custody or visitation
5 unless the court issues a subsequent order pursuant to
6 chapter 210, 211, 452 or 455 to limit or deny the custody
7 of, or visitations with, the child. Such sheriff or law
8 enforcement officer shall not remove a child from a person
9 who has actual physical custody of the child unless such
10 sheriff or officer is shown a court order or judgment which
11 clearly and convincingly verifies that such person is not
12 entitled to the actual physical custody of the child, and
13 there are not other exigent circumstances that would give
14 the sheriff or officer reasonable suspicion to believe that
15 the child would be harmed or that the court order presented
16 to the sheriff or officer may not be valid.

✓