

SENATE BILL NO. 1531

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

6671S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 452.410, RSMo, and to enact in lieu thereof two new sections relating to child custody.

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

Section A. Section 452.410, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 452.381 and 452.410, to read as follows:

452.381. 1. During the pendency of an action seeking
2 a modification of any judgment pertaining to child custody
3 or visitation, upon the motion of any party and with notice
4 to all other parties and after a hearing, the court may make
5 temporary orders relative to the custody and visitation of
6 the child subject to the judgment being modified. Any such
7 order shall remain in effect until the disposition of the
8 motion to modify or until further order of the court.

9 2. Notwithstanding the provisions of subsection 1 of
10 this section to the contrary, an order entered relative to
11 custody or visitation under this section may be entered
12 without notice to opposing parties if the court finds that
13 an emergency exists, the nature of which requires the court
14 to act before opposing parties can be heard in opposition.
15 In all such cases, the order shall be for a period not to
16 exceed fifteen days or until further order of the court, and
17 written notice of the issuance of any such order and the

18 reasons for it shall be given to opposing parties, along
19 with notice of the date, time, and place that a hearing on
20 the continuation of the order will be held.

21 3. No temporary order shall deny parenting time to a
22 parent or any other party granted custody or visitation
23 under the judgment for which modification is sought, unless
24 the court finds that parenting time is likely to cause
25 physical or emotional harm to the child.

26 4. If temporary parenting time is ordered, the court
27 may also order temporary child support or temporarily modify
28 any existing child support orders if requested by any party.

29 5. A temporary parenting plan issued under this
30 section shall not prejudice the rights of the parties or the
31 child that are to be adjudicated at subsequent hearings in
32 the proceeding.

33 6. Dismissal of the motion to modify shall
34 automatically vacate any temporary order issued under this
35 section.

452.410. 1. Except as provided in subsection 2 of
2 this section, the court shall not modify a prior custody
3 decree unless it has jurisdiction under the provisions of
4 section 452.745 and it finds, upon the basis of facts that
5 have arisen since the prior decree or that were unknown to
6 the court at the time of the prior decree, that a change has
7 occurred in the circumstances of the child or his custodian
8 and that the modification is necessary to serve the best
9 interests of the child. Notwithstanding any other provision
10 of this section or sections 452.375 and 452.400 to the
11 contrary, any custody order entered by any court in this
12 state or any other state may, subject to jurisdictional
13 requirements, be modified to allow for joint custody or

visitation only in accordance with section 452.375, 452.400, 452.402, or 452.403.

2. If either parent files a motion to modify an award of joint legal custody or joint physical custody, each party shall be entitled to a change of judge as provided by supreme court rule.

3. If the parties have agreed to terms for modification of custody or visitation of the child, the parties may submit to the court a proposed parenting plan signed, under oath, by all parties having rights of custody or visitation under the existing custody or visitation judgment. The proposed plan shall be accompanied by a motion, signed under oath by all parties, requesting a modification of the existing parenting plan and no statement of any changes in circumstances shall be required. If the court determines that the proposed plan is in the child's best interests, then the court shall enter an order granting custody or visitation according to the proposed parenting plan as soon as possible following the filing.

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