

SENATE BILL NO. 1643

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NICOLA.

6666S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 452.340, RSMo, and to enact in lieu thereof one new section relating to child support.

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

Section A. Section 452.340, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 452.340,
3 to read as follows:

452.340. 1. In a proceeding for dissolution of
2 marriage, legal separation or child support, the court may
3 order either or both parents owing a duty of support to a
4 child of the marriage to pay an amount reasonable or
5 necessary for the support of the child, including an award
6 retroactive to the date of filing the petition, without
7 regard to marital misconduct, after considering all relevant
8 factors including:

- 9 (1) The financial needs and resources of the child;
- 10 (2) The financial resources and needs of the parents;
- 11 (3) The standard of living the child would have
12 enjoyed had the marriage not been dissolved;
- 13 (4) The physical and emotional condition of the child,
14 and the child's educational needs;
- 15 (5) The child's physical and legal custody
16 arrangements, including the amount of time the child spends

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

17 with each parent and the reasonable expenses associated with
18 the custody or visitation arrangements; and

19 (6) The reasonable work-related child care expenses of
20 each parent.

21 2. The obligation of the parent ordered to make
22 support payments shall abate, in whole or in part, for such
23 periods of time in excess of thirty consecutive days that
24 the other parent has voluntarily relinquished physical
25 custody of a child to the parent ordered to pay child
26 support, notwithstanding any periods of visitation or
27 temporary physical and legal or physical or legal custody
28 pursuant to a judgment of dissolution or legal separation or
29 any modification thereof. In a IV-D case, the family
30 support division may determine the amount of the abatement
31 pursuant to this subsection for any child support order and
32 shall record the amount of abatement in the automated child
33 support system record established pursuant to chapter 454.
34 If the case is not a IV-D case and upon court order, the
35 circuit clerk shall record the amount of abatement in the
36 automated child support system record established in chapter
37 454.

38 3. Unless the circumstances of the child manifestly
39 dictate otherwise and the court specifically so provides,
40 the obligation of a parent to make child support payments
41 shall terminate when the child:

42 (1) Dies;

43 (2) Marries;

44 (3) Enters active duty in the military;

45 (4) Becomes self-supporting, provided that the
46 custodial parent has relinquished the child from parental
47 control by express or implied consent;

48 (5) Reaches age eighteen, unless the provisions of
49 subsection 4 or 5 of this section apply; or

50 (6) Reaches age [twenty-one] **twenty-two**, unless the
51 provisions of the child support order specifically extend
52 the parental support order past the child's [twenty-first]
53 **twenty-second** birthday for reasons provided by subsection 4
54 of this section.

55 4. If the child is physically or mentally
56 incapacitated from supporting himself and insolvent and
57 unmarried, the court may extend the parental support
58 obligation past the child's eighteenth birthday.

59 5. If when a child reaches age eighteen, the child is
60 enrolled in and attending a secondary school program of
61 instruction, the parental support obligation shall continue,
62 if the child continues to attend and progresses toward
63 completion of said program, until the child completes such
64 program or reaches age [twenty-one] **twenty-two**, whichever
65 first occurs. If the child is enrolled in an institution of
66 vocational or higher education not later than October first
67 following graduation from a secondary school or completion
68 of a graduation equivalence degree program and so long as
69 the child enrolls for and completes at least twelve hours of
70 credit each semester, not including the summer semester, at
71 an institution of vocational or higher education and
72 achieves grades sufficient to reenroll at such institution,
73 the parental support obligation shall continue until the
74 child completes his or her education, or until the child
75 reaches the age of [twenty-one] **twenty-two**, whichever first
76 occurs. To remain eligible for such continued parental
77 support, at the beginning of each semester the child shall
78 submit to each parent a transcript or similar official
79 document provided by the institution of vocational or higher

80 education which includes the courses the child is enrolled
81 in and has completed for each term, the grades and credits
82 received for each such course, and an official document from
83 the institution listing the courses which the child is
84 enrolled in for the upcoming term and the number of credits
85 for each such course. When enrolled in at least twelve
86 credit hours, if the child receives failing grades in half
87 or more of his or her courseload in any one semester,
88 payment of child support may be terminated and shall not be
89 eligible for reinstatement. Upon request for notification
90 of the child's grades by the noncustodial parent, the child
91 shall produce the required documents to the noncustodial
92 parent within thirty days of receipt of grades from the
93 education institution. If the child fails to produce the
94 required documents, payment of child support may terminate
95 without the accrual of any child support arrearage and shall
96 not be eligible for reinstatement. If the circumstances of
97 the child manifestly dictate, the court may waive the
98 October first deadline for enrollment required by this
99 subsection. If the child is enrolled in such an
100 institution, the child or parent obligated to pay support
101 may petition the court to amend the order to direct the
102 obligated parent to make the payments directly to the
103 child. As used in this section, an "institution of
104 vocational education" means any postsecondary training or
105 schooling for which the student is assessed a fee and
106 attends classes regularly. "Higher education" means any
107 community college, college, or university at which the child
108 attends classes regularly. A child who has been diagnosed
109 with a developmental disability, as defined in section
110 630.005, or whose physical disability or diagnosed health
111 problem limits the child's ability to carry the number of

112 credit hours prescribed in this subsection, shall remain
113 eligible for child support so long as such child is enrolled
114 in and attending an institution of vocational or higher
115 education, and the child continues to meet the other
116 requirements of this subsection. A child who is employed at
117 least fifteen hours per week during the semester may take as
118 few as nine credit hours per semester and remain eligible
119 for child support so long as all other requirements of this
120 subsection are complied with.

121 6. The court shall consider ordering a parent to waive
122 the right to claim the tax dependency exemption for a child
123 enrolled in an institution of vocational or higher education
124 in favor of the other parent if the application of state and
125 federal tax laws and eligibility for financial aid will make
126 an award of the exemption to the other parent appropriate.

127 7. The general assembly finds and declares that it is
128 the public policy of this state that frequent, continuing
129 and meaningful contact with both parents after the parents
130 have separated or dissolved their marriage is in the best
131 interest of the child except for cases where the court
132 specifically finds that such contact is not in the best
133 interest of the child. In order to effectuate this public
134 policy, a court with jurisdiction shall enforce visitation,
135 custody and child support orders in the same manner. A
136 court with jurisdiction may abate, in whole or in part, any
137 past or future obligation of support and may transfer the
138 physical and legal or physical or legal custody of one or
139 more children if it finds that a parent has, without good
140 cause, failed to provide visitation or physical and legal or
141 physical or legal custody to the other parent pursuant to
142 the terms of a judgment of dissolution, legal separation or
143 modifications thereof. The court shall also award, if

144 requested and for good cause shown, reasonable expenses,
145 attorney's fees and court costs incurred by the prevailing
146 party.

147 8. The Missouri supreme court shall have in effect a
148 rule establishing guidelines by which any award of child
149 support shall be made in any judicial or administrative
150 proceeding. Said guidelines shall contain specific,
151 descriptive and numeric criteria which will result in a
152 computation of the support obligation. The guidelines shall
153 address how the amount of child support shall be calculated
154 when an award of joint physical custody results in the child
155 or children spending equal or substantially equal time with
156 both parents and the directions and comments and any tabular
157 representations of the directions and comments for
158 completion of the child support guidelines and a subsequent
159 form developed to reflect the guidelines shall reflect the
160 ability to obtain up to a fifty percent adjustment or credit
161 below the basic child support amount for joint physical
162 custody or visitation as described in subsection 11 of this
163 section. The Missouri supreme court shall publish child
164 support guidelines and specifically list and explain the
165 relevant factors and assumptions that were used to calculate
166 the child support guidelines. Any rule made pursuant to
167 this subsection shall be reviewed by the promulgating body
168 not less than once every four years to ensure that its
169 application results in the determination of appropriate
170 child support award amounts.

171 9. There shall be a rebuttable presumption, in any
172 judicial or administrative proceeding for the award of child
173 support, that the amount of the award which would result
174 from the application of the guidelines established pursuant
175 to subsection 8 of this section is the correct amount of

176 child support to be awarded. A written finding or specific
177 finding on the record in a judicial or administrative
178 proceeding that the application of the guidelines would be
179 unjust or inappropriate in a particular case, after
180 considering all relevant factors, including the factors set
181 out in subsection 1 of this section, shall be required and
182 shall be sufficient to rebut the presumption in the case.
183 The written finding or specific finding on the record shall
184 detail the specific relevant factors that required a
185 deviation from the application of the guidelines.

186 10. Pursuant to this or any other chapter, when a
187 court determines the amount owed by a parent for support
188 provided to a child by another person, other than a parent,
189 prior to the date of filing of a petition requesting
190 support, or when the director of the family support division
191 establishes the amount of state debt due pursuant to
192 subdivision (2) of subsection 1 of section 454.465, the
193 court or director shall use the guidelines established
194 pursuant to subsection 8 of this section. The amount of
195 child support resulting from the application of the
196 guidelines shall be applied retroactively for a period prior
197 to the establishment of a support order and the length of
198 the period of retroactivity shall be left to the discretion
199 of the court or director. There shall be a rebuttable
200 presumption that the amount resulting from application of
201 the guidelines under subsection 8 of this section
202 constitutes the amount owed by the parent for the period
203 prior to the date of the filing of the petition for support
204 or the period for which state debt is being established. In
205 applying the guidelines to determine a retroactive support
206 amount, when information as to average monthly income is
207 available, the court or director may use the average monthly

208 income of the noncustodial parent, as averaged over the
209 period of retroactivity, in determining the amount of
210 presumed child support owed for the period of
211 retroactivity. The court or director may enter a different
212 amount in a particular case upon finding, after
213 consideration of all relevant factors, including the factors
214 set out in subsection 1 of this section, that there is
215 sufficient cause to rebut the presumed amount.

216 11. The court may award child support in an amount
217 that provides up to a fifty percent adjustment below the
218 basic child support amount authorized by the child support
219 guidelines described under subsection 8 of this section for
220 custody awards of joint physical custody where the child or
221 children spend equal or substantially equal time with both
222 parents.

223 12. The obligation of a parent to make child support
224 payments may be terminated as follows:

225 (1) Provided that the state case registry or child
226 support order contains the child's date of birth, the
227 obligation shall be deemed terminated without further
228 judicial or administrative process when the child reaches
229 age ~~[twenty-one]~~ **twenty-two** if the child support order does
230 not specifically require payment of child support beyond age
231 ~~[twenty-one]~~ **twenty-two** for reasons provided by subsection 4
232 of this section;

233 (2) The obligation shall be deemed terminated without
234 further judicial or administrative process when the parent
235 receiving child support furnishes a sworn statement or
236 affidavit notifying the obligor parent of the child's
237 emancipation in accordance with the requirements of
238 subsection 4 of section 452.370, and a copy of such sworn
239 statement or affidavit is filed with the court which entered

240 the order establishing the child support obligation, or the
241 family support division for an order entered under section
242 454.470;

243 (3) The obligation shall be deemed terminated without
244 further judicial or administrative process when the parent
245 paying child support files a sworn statement or affidavit
246 with the court which entered the order establishing the
247 child support obligation, or the family support division for
248 an order entered under section 454.470, stating that the
249 child is emancipated and reciting the factual basis for such
250 statement; which statement or affidavit is served by the
251 court or division, as applicable, on the child support
252 obligee; and which is either acknowledged and affirmed by
253 the child support obligee in writing, or which is not
254 responded to in writing within thirty days of receipt by the
255 child support obligee;

256 (4) The obligation shall be terminated as provided by
257 this subdivision by the court which entered the order
258 establishing the child support obligation, or the family
259 support division for an order entered under section 454.470,
260 when the parent paying child support files a sworn statement
261 or affidavit with the court which entered the order
262 establishing the child support obligation, or the family
263 support division, as applicable, stating that the child is
264 emancipated and reciting the factual basis for such
265 statement; and which statement or affidavit is served by the
266 court or division, as applicable, on the child support
267 obligee. If the obligee denies the statement or affidavit,
268 the court or division shall thereupon treat the sworn
269 statement or affidavit as a request for hearing and shall
270 proceed to hear and adjudicate such request for hearing as
271 provided by law; provided that the court may require the

272 payment of a deposit as security for court costs and any
273 accrued court costs, as provided by law, in relation to such
274 request for hearing. When the division receives a request
275 for hearing, the hearing shall be held in the manner
276 provided by section 454.475.

277 13. The court may enter a judgment terminating child
278 support pursuant to subdivisions (1) to (3) of subsection 12
279 of this section without necessity of a court appearance by
280 either party. The clerk of the court shall mail a copy of a
281 judgment terminating child support entered pursuant to
282 subsection 12 of this section on both the obligor and
283 obligee parents. The supreme court may promulgate uniform
284 forms for sworn statements and affidavits to terminate
285 orders of child support obligations for use pursuant to
286 subsection 12 of this section and subsection 4 of section
287 452.370.

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