

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 651**  
**89TH GENERAL ASSEMBLY**

Reported from the Committee on Children, Youth & Families, April 29, 1998, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 651 Do Pass.  
ANNE C. WALKER, Chief Clerk  
L2488.21C

**AN ACT**

To repeal sections 104.540, 210.826, 210.830, 435.405, 452.150, 452.300, 452.310, 452.325, 452.335, 452.342, 452.355, 452.360, 452.365, 452.376, 452.377, 452.380, 452.385, 452.405, 452.411, 452.416, 452.420, 452.423, 452.490, 452.600, 452.605 and 454.432, RSMo 1994, and sections 193.215, 210.109, 210.822, 287.820, 452.305, 452.315, 452.330, 452.340, 452.370, 452.375, 452.400, 452.423, 452.490, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505, 476.688 and 556.036, RSMo Supp. 1997, relating to child support and custody, and to enact in lieu thereof sixty-eight new sections relating to the same subject, with penalty provisions and an effective date.

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

Section A. Sections 104.540, 210.826, 210.830, 435.405, 452.150, 452.300, 452.310, 452.325, 452.335, 452.342, 452.355, 452.360, 452.365, 452.376, 452.377, 452.380, 452.385, 452.405, 452.411, 452.416, 452.420, 452.423, 452.490, 452.600, 452.605 and 454.432, RSMo 1994, and sections 193.215, 210.109, 210.822, 287.820, 452.305, 452.315, 452.330, 452.340, 452.370, 452.375, 452.400, 452.423, 452.490, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505, 476.688 and 556.036, RSMo Supp. 1997, are repealed and sixty-eight new sections enacted in lieu thereof, to be known as sections 104.540, 193.215, 210.109, 210.822, 210.826, 210.830, 210.844, 287.820, 435.405, 452.150, 452.300, 452.302, 452.305, 452.310, 452.315, 452.317, 452.325, 452.330, 452.335, 452.339, 452.340, 452.342, 452.355, 452.360, 452.365, 452.370, 452.372, 452.373, 452.375, 452.376, 452.377, 452.380, 452.385, 452.400, 452.405, 452.411, 452.416, 452.420, 452.423, 452.490, 452.552, 452.554, 452.556, 452.600, 452.605, 454.390, 454.408, 454.413, 454.432, 454.440, 454.455, 454.460, 454.478, 454.490, 454.505, 454.999, 454.1031, 476.688, 537.044, 556.036, 1, 2, 3, 4, 5, 6, 7 and 8, to read as follows:

104.540. 1. All premium payments and deferred compensation provided for [under] **pursuant to** sections 104.320 to 104.540 are hereby made obligations of the state of Missouri. No alteration, amendment, or repeal of sections 104.320 to 104.540 shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise

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

accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal.

2. Any annuity, benefits, funds, property, or rights created by, or accruing or paid to, any person [under] **pursuant to** the provisions of sections 104.320 to 104.540 shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except [that] **with regard to the collection of child support or maintenance**. Any retired member of the system may request the executive director of the system, in writing, to withhold and pay on his **or her** behalf to the proper person, from each of his **or her** monthly retirement benefit payments, if the payment is large enough, the contribution due from the retired member to any group providing prepaid hospital care and any group providing prepaid medical and surgical care and any group providing life insurance when such group is composed entirely of members of the system.

3. The executive director of the system shall, when requested in writing by a retired member, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retired member.

193.215. 1. A certificate or report registered pursuant to sections 193.005 to 193.325 may be amended only pursuant to the provisions of sections 193.005 to 193.325, and regulations adopted by the department.

2. A certificate or report that is amended pursuant to this section shall be marked "Amended" except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made part of the record.

3. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name. The court order shall include such facts as are necessary to locate and identify the certificate of birth of the person whose name is being changed.

4. When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and the applicant's right of appeal to a court of competent jurisdiction.

5. When a certificate or report is amended pursuant to this section, the state registrar shall report the amendment to any other custodians of the vital record and their record shall be amended accordingly.

6. Upon written request of both parents and receipt of a sworn acknowledgment of paternity notarized and signed by both parents of a child born out of wedlock, the state registrar shall amend the certificate of birth to show such paternity. The acknowledgment affidavit form shall be developed by the state registrar and shall include the minimum requirements prescribed by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. section 652(a)(7). The acknowledgment form shall include provisions to allow the parents to change the surname of the child and such surname shall be changed on the birth record if the parents elect to change the child's surname. The signature of the parents shall be notarized or the signature shall be witnessed by at least two disinterested adults whose signatures and addresses shall be

plainly written thereon. The form shall be accompanied by oral **notice, which may be provided through the use of video or audio equipment**, and written notice to the mother and putative father of:

(1) The alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment;

(2) The benefits of having the child's paternity established; and

(3) The availability of paternity establishment and child support enforcement services. A rescission of acknowledgment form shall be filed with the bureau of vital records pursuant to section 210.823, RSMo, to vacate the legal finding of paternity. The bureau shall file all rescissions and forward a copy of each to the division of child support enforcement. The birth record shall only be changed pursuant to this subsection upon an order of the court or the division of child support enforcement.

7. The department shall offer voluntary paternity establishment services.

8. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian or legal representative, the state registrar shall amend the certificate of birth to show the new name.

9. Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended.

210.109. 1. The division of family services shall establish a child protection system [in eight areas of the state selected by the division] **for the entire state**.

2. The child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments in response to reports of child abuse or neglect. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

3. In implementing the child protection system, the division shall:

(1) Receive and maintain reports pursuant to the provisions of subsections 1 and 2 of section 210.145;

(2) Forward the report to the appropriate division staff who shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. The division may investigate any report, but shall conduct an investigation involving reports, which if true, would constitute a violation of section 565.050, RSMo, if the victim is a child less than eighteen years of age, a violation of section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or any other violation of chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, a violation of section 567.050, RSMo, if the victim is a child less than eighteen years of age, a violation of section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, a violation of section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes;

(3) Communicate reports of child abuse or neglect to the appropriate local office, pursuant to the provisions of subsection 4 of section 210.145;

(4) Contact the appropriate law enforcement agency upon receipt of a report of a violation of section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, a violation of section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or any other violation of chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, a violation of section 567.050, RSMo, if the victim is a child less than eighteen years of age, a violation of section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, a violation of section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes, and shall provide such agency with a detailed description of the report received. The appropriate law enforcement agency shall assist the division in the investigation or provide the division, within a reasonable time, an explanation in writing detailing the reasons why it is unable to assist;

(5) Cause a thorough investigation or family assessment and services approach to be initiated within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation or family assessment and services approach shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation or family assessment and services approach shall include direct observation of the subject child within twenty-four hours of the receipt of the report;

(6) Investigate, if it is determined that an investigation is necessary, in compliance with the provisions of section 210.145;

(7) Assess, in cases where the family assessment and services approach is used, any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(8) Provide services, in cases in which the family assessment and services approach is used, which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(9) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(10) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed;

(11) Conduct a family assessment and services approach on reports initially referred for an investigation, if it is determined that a complete investigation is not required. If law enforcement officers are involved in the investigation, they shall provide written agreement with this decision. The reason for the termination of the investigative process shall be documented in the record;

(12) Assist the child and family in obtaining services, if at any time during the

investigation it is determined that the child or any member of the family needs services;

(13) Collaborate with the community to identify comprehensive local services and assure access to those services for children and families where there is risk of abuse or neglect;

(14) Contact the person who made the report [under] **pursuant to** section 210.115, pursuant to the provisions of section 210.145;

(15) Forward any evidence of malice or harassment to the local prosecuting or circuit attorney as required by the provisions of section 210.145;

(16) Provide services as required by section 210.145;

(17) Use multidisciplinary services as required by section 210.145;

(18) Update the information in the information system within thirty days of an oral report of abuse or neglect. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation or family assessment and services approach, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations or family assessments within thirty days, unless good cause for the failure to complete the investigation or assessment is documented in the information system. If the investigation or family assessment is not completed within thirty days the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter;

(19) Maintain a record which contains the facts ascertained which support the determination as well as the facts that do not support the determination.

4. By January 1, 1998, the division of family services shall submit documentation to the speaker of the house of representatives and the president pro tem of the senate on the success or failure of the child protection system established in this section. The general assembly may recommend statewide implementation or cancellation of the child protection system based on the success or failure of the system established in this section.

5. The documentation required by subsection 4 of this section shall include an independent evaluation of the child protection system completed according to accepted, objective research principles.

210.822. 1. A man shall be presumed to be the natural father of a child if:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or dissolution, or after a [decree] **judgment** of separation is entered by a court; or

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with the law, although the attempted marriage is or may be declared invalid, and:

(a) If the attempted marriage may be declared invalid only by a court, the child is born during the attempted marriage or within three hundred days after its termination by death, annulment, declaration of invalidity or **judgment of** dissolution; or

(b) If the marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation; or

(3) After the child's birth, he and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the

marriage is or may be declared invalid, and:

- (a) He has acknowledged his paternity of the child in writing filed with the bureau; or
- (b) With his consent, he is named as the child's father on the child's birth certificate [before July 1, 1997]; or
- (c) He is obligated to support the child pursuant to a written voluntary promise or by court order; or
- (4) An expert concludes that the blood tests show that the alleged parent is not excluded and that the probability of paternity is [ninety-eight] **ninety-nine and ninety-nine one hundredths** percent or higher, using a prior probability of 0.5.

2. A presumption pursuant to this section may be rebutted in an appropriate action only by clear and convincing evidence, except that a presumption [under] **pursuant to** subsection 1 of this section that arises from a blood test or the filing of an acknowledgment of paternity in a state or territory in which the blood test or the filing creates a conclusive presumption by law also has conclusive effect in Missouri. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing the paternity of the child by another man.

210.826. 1. A child, [his] **the child's** natural mother, a man presumed to be [his] **the child's** father [under subdivision (1), (2), or (3) of] **pursuant to** subsection 1 of section 210.822, a man alleging himself to be a father, **any person having physical or legal custody of a child for a period of more than sixty days** or the division of child support enforcement may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship presumed [under subdivision (1), (2), or (3) of] **pursuant to** subsection 1 of section 210.822.

2. [Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under subdivision (4) of subsection 1 of section 210.822.

3.] An action to determine the existence of the father and child relationship with respect to a child who has no presumed father [under] **pursuant to** section 210.822 may be brought by the child, the mother or the person who has legal custody of the child, **any person having physical or legal custody of a child for a period of more than sixty days**, the division of child support enforcement, the personal representative or a parent of the mother if the mother has died, a man alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

[4.] **3.** Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with subsection 2 of section 210.838, between an alleged or presumed father and the mother or child, does not bar an action [under] **pursuant to** this section.

[5.] **4.** If an action [under] **pursuant to** this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

210.830. The child shall be made a party to any action commenced [under] **pursuant to** sections 210.817 to 210.852. If [he] **the child** is a minor, [he] **the child** may be represented by a next friend appointed for [him] **the child** for any such action. The child's mother [or father or], the division of child support enforcement **or any person having physical or legal custody of the child** may represent [him] **the child** as his **or her** next friend. A guardian ad litem shall be

appointed for the child only if child abuse or neglect is alleged, or if the child is named as a defendant, or if the court determines that the interests of the child and his **or her** next friend are in conflict. The natural mother, each man presumed to be the father [under] **pursuant to** section 210.822, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

**210.844. In a proceeding to determine the existence of the parent and child relationship brought pursuant to the provisions of sections 454.010 to 454.360, RSMo, or pursuant to the provisions of sections 454.850 to 454.997, RSMo, the provisions of sections 210.817, 210.822 and 210.834 shall apply, but no other provisions of sections 210.818 to 210.852 shall apply.**

287.820. 1. Retirement benefits shall be paid to the retired person in equal monthly installments during the remainder of the person's life. The annual amount of benefits paid shall be equal to fifty percent of the highest salary received during the person's period of service.

2. Except as provided in section 104.312, RSMo, any annuity, benefits, funds, property or rights created by, or accruing to, any person [under] **pursuant to** the provisions of sections 287.812 to 287.855 shall not be subject to execution, garnishment, attachment, writ of sequestration, or any other process or claim whatsoever, and shall be unassignable, except [that] **with regard to the collection of child support or maintenance.** Any retired member of the system may request the executive director of the system, in writing, to withhold and pay on the retired member's behalf to the proper person, from each of the retired member's monthly retirement benefit payments, if the payment is large enough, the contribution due from the retired member to any group providing prepaid hospital care and any group providing prepaid medical and surgical care when such group is composed entirely of members of the system.

3. The executive director of the system shall, when requested in writing by a retired member, withhold and pay over the funds authorized in subsection 2 of this section until such time as the request to do so is revoked by the death or written revocation of the retired member.

4. Beginning January 1, 1989, any person who was employed prior to August 28, 1997, who is receiving or thereafter shall receive retirement benefits pursuant to sections 287.812 to 287.855 upon application to the board of trustees of the Missouri state employees' retirement system shall be made, constituted, appointed, and employed by the board as a special consultant on the problems of retirement, aging and other state matters for the remainder of the person's life. Upon request of the board or the court from which the person retired, the consultant shall give opinions or be available to give opinions in writing or orally in response to such requests. As compensation the consultant shall receive in addition to all other compensation provided by law a percentage increase in compensation each year computed upon the total amount that the consultant received in the previous year from state retirement benefits of eighty percent of the increase in the consumer price index calculated in the manner specified in section 104.415, RSMo. Any such annual increase in compensation, however, shall not exceed five percent, nor be less than four percent. The total increase in compensation pursuant to the provisions of this subsection to each special consultant who also receives benefits pursuant to sections 287.812 to 287.855 shall not exceed sixty-five percent of the initial benefit that the person receives after August 31, 1987. The total increase in compensation pursuant to the provisions of this subsection to each special consultant who also receives benefits pursuant to sections 287.812 to 287.855 shall not exceed sixty-five percent of the initial benefit that the person receives after

January 1, 1989.

5. As additional compensation for the services described in subsection 4 of this section, each special consultant shall receive an annual percentage increase in the retirement benefit payable equal to eighty percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the retirement benefit payable prior to the increase. The annual benefit increase described in this subsection shall not be effective until the year in which the special consultant reaches the limit on total annual increases provided by subsection 4 of this section. During that year on the anniversary date of the special consultant's retirement, the special consultant shall receive the benefit increase described in subsection 4 of this section or this subsection, whichever is greater. After that year, the special consultant shall receive the annual benefit increase described in this subsection. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 4 of this section prior to October 1, 1996, shall receive the benefit increase described in this subsection on September 1, 1997. Any special consultant who reaches the limit on total annual benefit increases provided by subsection 4 of this section on or after October 1, 1996, but before September 1, 1997, shall receive the benefit increase described in this subsection beginning on the anniversary date of the special consultant's retirement following September 1, 1997. In no event shall any retroactive annual benefit increases be paid [under] **pursuant to** this subsection to any special consultant who reached the limit provided in subsection 4 of this section prior to August 28, 1997.

6. Each person who is employed for the first time as an administrative law judge or a legal advisor on or after August 28, 1997, and retires shall be entitled annually to a percentage increase in the retirement benefit payable equal to eighty percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the retirement benefit payable prior to the increase.

7. Survivors of members described in subsection 6 of this section shall be entitled to the annual benefit increase described in subsection 6 of this section.

8. The compensation provided for in this section shall be payable in equal monthly installments and shall be consolidated with any retirement benefits. The compensation shall be paid from the retirement fund. The retirement fund shall be funded on an actuarial basis for such benefits as prescribed in section 287.845.

435.405. 1. Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 435.370, as to prejudice substantially the rights of a party; or
- (5) There was no arbitration agreement and the issue was not adversely determined in proceedings [under] **pursuant to** section 435.355 and the party did not participate in the arbitration hearing without raising the objection; but the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

2. An application [under] **pursuant to** this section shall be made within ninety days after



delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.

3. In vacating the award on grounds other than stated in subdivision (5) of subsection 1 of this section **or subsection 5 of this section**, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with section 435.360, or if the award is vacated on grounds set forth in subdivisions (3) and (4) of subsection 1 of this section the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 435.360. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

4. If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

**5. Notwithstanding the provisions of this section, if an arbitration award in any legal proceeding involving a child determines an issue regarding a child of the marriage, such determination shall be subject to de novo judicial review.**

452.150. The father and mother living apart are entitled to an adjudication [of] **by** the circuit court as to their powers, rights and duties in respect to the custody and control and the services and earnings and management of the property of their unmarried minor children without any preference as between the [said] father and mother, and neither the father nor the mother has any right paramount to that of the other in respect to the custody and control or the services and earnings or of the management of the property of their [said] unmarried minor children; pending such adjudication the father or mother who actually has the custody and control of [said] **such** unmarried minor children shall have the sole right to the custody and control and to the services and earnings and to the management of the property of [said] **such** unmarried minor children.

452.300. 1. The rules of the supreme court and **other** applicable court rules [apply to] **shall govern** all proceedings [under] **pursuant to** sections 452.300 to 452.415. [The proceedings shall be had in the county where the plaintiff resides, and the proceedings may be directed, in the first instance, in any other county in the state where the defendant resides.]

2. A proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled: "In re the Marriage of ..... and .....".

3. The initial pleading in [all proceedings under] **an original proceeding pursuant to** sections 452.300 to 452.415 shall be denominated a "petition"[. A] **and the** responsive pleading **in an original proceeding** shall be denominated an "answer". Other pleadings **in an original proceeding** and all pleadings in other [matters under] **proceedings pursuant to** sections 452.300 to 452.415 shall be denominated as provided in the rules of [civil procedure and] **the supreme court and other** applicable court rules.

4. **Any party who files the initial pleading in an original proceeding pursuant to sections 452.300 to 452.415 shall be denominated the "petitioner" and any party who is required to file or who files a responsive pleading in an original proceeding shall be denominated the "respondent". Each party shall retain such denomination from the original proceeding in any other proceedings pursuant to sections 452.300 to 452.415.**

**5. An original proceeding pursuant to sections 452.300 to 452.415 shall be commenced in the county in which the petitioner resides or in the county in which the respondent resides. If an original proceeding is commenced in the county in which the**

petitioner resides, upon motion by the respondent filed prior to the filing of a responsive pleading, the court in which the proceeding is commenced may transfer the proceeding to the county in which the respondent resides if:

(1) The county in which the respondent resides had been the county in which the children resided during the ninety days immediately preceding the commencement of the proceeding; or

(2) The best interest of the children will be served if the proceeding is transferred to the county in which the respondent resides because:

(a) The children and at least one parent have a significant connection with the county; and

(b) There is substantial evidence concerning the present or future care, protection and personal relationships of the children in the county.

6. In proceedings pursuant to sections 452.300 to 452.415, "judgment" shall include a "decree" [includes "judgments"].

452.302. As used in this chapter, the following terms shall mean:

(1) "Child", any child of the marriage who is eligible for support pursuant to section 452.340;

(2) "Custody", joint legal custody, legal custody, joint physical custody or physical custody, or any combination thereof, for orders entered prior to January 1, 1999, or joint or sole legal custody, as defined in section 452.375, for orders entered after January 1, 1999;

(3) "Parenting plan", a plan for parenting a child which is incorporated in any judgment of dissolution of marriage or legal separation, and any order in modification thereof. A parenting plan shall include:

(a) A parenting time schedule, which shall include:

a. Major holidays, stating which holidays a parent has each year;

b. School holidays for school age children;

c. The child's birthday;

d. Weekday and weekend schedules, and for school age children, a designation of a residence for purposes of the child's attendance at public school, and where and with whom vacations from school will be spent;

e. The times for transfer of the child between the parents in connection with the parenting time schedule;

f. A plan for sharing transportation duties associated with the parenting time schedule;

g. Appropriate times for telephone access; and

h. Any suggested restrictions or limitations on parenting time and reasons for the same; and

(b) A specific plan designating joint or sole legal custody and detailing how decision-making and responsibilities will be shared between the parties, including the following:

a. Educational decisions and methods of communicating routine information from the school to both parents;

b. Medical and dental decisions, including how health care providers will be selected, a method of communicating medical conditions of the child and how emergency

care will be handled;

c. Extracurricular activities, including a method for determining which activities the child will participate in when such activities involve parent's parenting time;

d. Child care providers, including how such providers will be selected;

e. Communication procedures, including access to telephone numbers as appropriate; and

f. A dispute resolution procedure for those matters on which the parties disagree or for interpreting the parenting plan;

g. If a parent suggests no shared decision making, a statement of the reasons for such request;

(4) "Parenting time", the time a parent is primarily responsible for a child, including such time scheduled by the court pursuant to a parenting plan, or the periods of physical custody and visitation for orders issued prior to January 1, 1999;

(5) "Visitation", the time a third party spends with a child pursuant to a court order, or the time a noncustodial parent spends with a child pursuant to a court order issued prior to January 1, 1999.

452.305. 1. The [circuit] court shall enter a [decree] **judgment** of dissolution of marriage if:

(1) The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days [next] **immediately** preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; **and**

(2) The court finds that there remains no reasonable likelihood that the marriage can be preserved and **that** therefore the marriage is irretrievably broken; and

(3) To the extent it has jurisdiction [to do so], the court has considered[, approved, or] **and** made provision for [child] **the legal custody of and parenting time with each child**, the support of [any] **each** child [of the marriage who is entitled to support], the maintenance of either spouse[, ] and the disposition of property.

2. [If a party requests a decree of legal separation rather than a decree of dissolution of marriage, the court shall grant the decree in that form.] **The court shall enter a judgment of legal separation if:**

(1) **The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days immediately preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; and**

(2) **The court finds that there remains a reasonable likelihood that the marriage can be preserved and that therefore the marriage is not irretrievably broken; and**

(3) **To the extent it has jurisdiction, the court has considered and made provision for the legal custody of and parenting time with each child, the support of each child, the maintenance of either spouse and the disposition of property.**

3. [A decree entered] **Any judgment of dissolution of marriage or legal separation** shall include the social security numbers of the parties.

452.310. 1. [All proceedings under sections 452.300 to 452.415 are commenced in the manner provided by the rules of the supreme court.

2. The petition in a proceeding for dissolution of marriage or legal separation shall be

verified and] **In any proceeding commenced pursuant to chapter 452, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.**

**2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:**

(1) **The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;**

(2) **The date of the marriage and the place at which it [was] is registered;**

(3) **The date on which the parties separated;**

(4) **The [names, ages, and addresses of any living children of the marriage and] name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;**

(5) **Whether the wife is pregnant;**

**(6) The social security number of the petitioner, respondent and each child;**

**[(5)] (7) A parenting time schedule, and any arrangements as to the [custody and] support of the children and the maintenance of [a spouse] each party; and**

**[(6)] (8) The relief sought.**

**3. [In listing the names, ages, and addresses of any living children of the marriage, the party filing the petition shall state which party has actual custody of any minor children, and, upon the filing of the petition, all unemancipated, unmarried minor children shall come under the immediate jurisdiction of the court in which the action is filed, unless a petition alleging abuse or neglect of such minor children is pending in the juvenile court. Thereafter, until permitted to do so by order of the court, neither party shall remove such minor children from the jurisdiction of the court nor from the care and custody of the party which has custody of the children at the time the action is filed.**

**4. The other party must be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service file a verified answer.] Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court and, until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from the parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.**

**4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination of legal custody of or parenting time with the child.**

**5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not**

**only admit or deny the allegations of the petition, but shall also set forth:**

- (1) The social security number of the petitioner, respondent and each child;**
- (2) A parenting time schedule, and any arrangements as to the support of the children and the maintenance of each party; and**
- (3) The relief sought.**

[5.] **6.** Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

452.315. 1. In a proceeding for dissolution of marriage or legal separation, either party may move for temporary maintenance and for temporary support for [children] **each child** entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. In a proceeding for disposition of property, maintenance[,] or support following the dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for maintenance and for support of [children of the marriage] **each child** entitled to support. This motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. This motion and the affidavit shall be served as though an original pleading upon the opposite party.

2. As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue an order after notice and hearing:

- (1) Restraining any person from transferring, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring the person to notify the moving party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the order is issued;

- (2) Enjoining a party from **harassing, abusing,** molesting or disturbing the peace of the other party or of any child;

- (3) Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result[.];

- (4) Establishing and ordering compliance with a parenting time schedule for each child and providing for the support of each child.**

3. The court may issue a restraining order only if it finds on the evidence that irreparable injury would result to the moving party if an order is not issued until the time for answering has elapsed.

4. An answer may be filed within ten days after service of notice of motion or at the time specified in the restraining order.

5. On the basis of the showing made and in conformity with section 452.335 on maintenance and section 452.340 on support, the court may issue a temporary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

6. A restraining order or temporary injunction:

- (1) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceedings;

- (2) May be revoked or modified prior to final [decree] **judgment** on a showing by

affidavit of the facts necessary to revocation or modification of a final [decree] **judgment** pursuant to section 452.370; and

(3) Terminates when the final [decree] **judgment** is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

7. The court shall enter a temporary order requiring the provision of child support pending the final judicial determination if there is clear and convincing evidence establishing a presumption of paternity pursuant to section 210.822, RSMo. In determining the amount of child support, the court shall consider the factors set forth in section 452.340.

**8. Any order entered in modification or vacation of any order entered pursuant to this section shall be retroactive to the date of entry of the original order.**

**452.317. 1. Upon a party's filing of a verified application, the court may enter an order pendente lite which specifies a temporary parenting time schedule, temporary child support, temporary attorney fees and costs, and temporary maintenance, without the necessity of a formal hearing; provided that the movant has also filed a certification of proof of service of copies of the following on all other parties ten days before the day on which the movant files the application with the court:**

**(1) Written notice of intent to file the application on a certain day;**

**(2) The application for temporary orders; and**

**(3) Movant's suggestions and affidavits in support of the application on all other parties.**

**2. Suggestions and affidavits in opposition to the application shall be filed on the day specified in the notice as the day on which the application will be filed. If the notice is given by mail, the provisions of Missouri rules of civil procedure pertaining to notice by mail shall apply.**

**3. An oral hearing may be requested on the order pendente lite or other relief requested in the application, but any request will not suspend or delay commencement of the rights and obligations under the order pendente lite. Any modification of the order pendente lite after an oral hearing shall be retroactive to the effective date of the original order.**

**4. Any request for an oral hearing on an order pendente lite may, in the sole discretion of the court, be assigned to a master, who shall be an attorney licensed to practice law in this state and shall be appointed by the court within five days of the filing of the request for oral hearing.**

**5. The hearing before the master, which shall be held no later than fifteen days after appointment of the master, shall be limited to three hours which shall be divided equally between the parties, and shall be conducted on the record only if one party arranges for the attendance of a court reporter, in which event such party shall bear the cost of attendance of the reporter and preparation of the original transcript for filing with the court. The master shall be paid a reasonable fee, as determined by the court, for one hour of preparation before and after the hearing and for each hour of hearing, which shall be paid by the party requesting the hearing no later than immediately prior to commencement of the hearing; except that, the court may later enter a judgment assessing the fee paid to the master as recoverable against any other party.**

**6. The master shall submit the master's report to the court within seven days of the hearing after which the court shall issue its judgment on the matters raised in the hearing.**

452.325. 1. To promote the amicable settlement of disputes between the parties to a marriage attendant upon their separation or the dissolution of their marriage **and in conjunction with section 452.372**, the parties may enter into a written [separation] **marital settlement** agreement containing provisions for the maintenance of either [of them,] **spouse, the support of each child**, the disposition of any property owned by either of them, and the [custody, support and visitation of their children] **parenting plan for the legal custody of and parenting time with each child**.

2. In a proceeding for dissolution of marriage or for legal separation, the terms of the [separation] **marital settlement** agreement, except terms providing for the [custody, support, and visitation of children] **support of each child which are required to be included in the parenting plan set forth in section 452.373**, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the [separation] **marital settlement** agreement is unconscionable or is not in the best interest of each child.

3. In a proceeding for dissolution of marriage or legal separation, the terms of the **parenting plan and the terms of the marital settlement agreement for the support of any children are not binding upon the court, which, in each instance, shall determine whether the parenting plan and the terms of the marital settlement agreement for support are in the best interest of each child**.

[3.] 4. If the court finds the [separation] **terms of the marital settlement** agreement, **except terms providing for the support of each child**, unconscionable or not in the best interest of each child, the court may request the parties to submit a revised [separation] **marital settlement** agreement, or the court may make orders for the disposition of property[, support,] and maintenance in accordance with the provisions of sections 452.330[, and 452.335 [and 452.340].

5. If the court finds the terms of the parenting plan or the terms of the marital settlement agreement for the support of each child are not in the best interest of each child, the court may request the parties to submit a revised parenting plan or marital settlement agreement, or the court may make orders for the legal custody of, parenting time with and support of each child in accordance with the provisions of sections 452.340 and 452.375.

[4.] 6. If the court finds that the [separation] **marital settlement** agreement is not unconscionable **and is in the best interest of each child** as to [support,] maintenance[, and property:

(1) Unless the [separation] **marital settlement** agreement provides to the contrary, its terms shall be set forth in the [decree] **judgment** of dissolution or legal separation and the parties shall be ordered to perform them; or

(2) If the [separation] **marital settlement** agreement provides that its terms shall not be set forth in the [decree] **judgment**, only those terms [concerning child support, custody and visitation] **providing for the support of any children** shall be set forth in the [decree, and the decree shall state that the court has found the remaining terms not unconscionable] **judgment**.

7. If the court finds that the parenting plan is in the best interest of each child, its terms shall be set forth in the judgment of dissolution of marriage or legal separation, and the parties shall be ordered to perform them.

[5.] 8. Terms of the **marital settlement** agreement **and parenting plan** set forth in the [decree] **judgment** are enforceable by all remedies available for the enforcement of a judgment,

and the court may punish **by contempt** any party who willfully violates **any provision of the agreement or plan incorporated into** its [decree to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court] **judgment**.

[6.] **9.** Except for terms [concerning] **in the marital settlement agreement set forth in the judgment providing for** the support[, custody or visitation of children, the decree] **of each child, the judgment** may expressly preclude or limit modification of terms set forth in the [decree if the separation] **judgment if the marital settlement** agreement so provides. **All terms of the parenting plan shall be subject to modification.**

452.330. 1. In a proceeding for dissolution of the marriage or legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse such spouse's nonmarital property and shall divide the marital property **and marital debts** in such proportions as the court deems just after considering all relevant factors including:

(1) The economic circumstances of each spouse at the time the division of property is to become effective, including [the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children] **awarding the family home or the right to live therein after court review of the parenting time schedule of the child pursuant to the parenting plan;**

(2) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

(3) The value of the nonmarital property set apart to each spouse;

(4) The conduct of the parties during the marriage; and

(5) [Custodial arrangements for minor children] **The parenting plan for each child.**

2. For purposes of sections 452.300 to 452.415 only, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(1) Property acquired by gift, bequest, devise[, ] or descent;

(2) Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise[, ] or descent;

(3) Property acquired by a spouse after a [decree] **judgment** of legal separation;

(4) Property excluded by valid written agreement of the parties; and

(5) The increase in value of property acquired prior to the marriage or pursuant to subdivisions (1) to (4) of this subsection, unless marital assets, including labor, have contributed to such increases and then only to the extent of such contributions.

3. All property acquired by either spouse subsequent to the marriage and prior to a [decree] **judgment** of legal separation or dissolution of marriage is presumed to be marital property regardless of whether title is held individually or by the spouses in some form of co-ownership, such as joint tenancy, tenancy in common, tenancy by the entirety[, ] and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection 2 of this section.

4. Property which would otherwise be nonmarital property shall not become marital property solely because it may have become commingled with marital property.

5. The court's order as it affects distribution of marital property shall be a final order not subject to modification; provided, however, that orders intended to be qualified domestic relations orders affecting pension, profit sharing and stock bonus plans pursuant to the U. S. Internal



Revenue Code shall be modifiable only for the purpose of establishing or maintaining the order as a qualified domestic relations order or to revise or conform its terms so as to effectuate the expressed intent of order.

6. A certified copy of any [decree] **judgment** of court affecting title to real estate may be filed for record in the office of the recorder of deeds of the county and state in which the real estate is situated by the clerk of the court in which the [decree] **judgment** was made.

452.335. 1. In a proceeding for nonretroactive invalidity, dissolution of marriage or legal separation, or **in** a proceeding for maintenance following dissolution of [the] **a** marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order to either spouse, but only if it finds that the spouse seeking maintenance:

(1) Lacks sufficient property, including marital property apportioned to him **or her**, to provide for his **or her** reasonable needs; and

(2) Is unable to support himself **or herself** through appropriate employment or is the [custodian] **parent** of a child whose condition or circumstances, **in light of the parenting plan**, make it appropriate that the [custodian] **parent** not be required to seek employment outside the home.

2. The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors, including:

(1) The financial resources of the party seeking maintenance, including **the** marital property apportioned to [him] **the party**, and [his] **the party's** ability to meet his **or her** needs independently, including the extent to which a provision for support of [a] **each** child living with the party includes a sum for that party as [custodian] **a parent**;

(2) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) The comparative earning capacity of each spouse;

(4) The standard of living established during the marriage;

(5) The obligations and assets, including the marital property apportioned to him **or her** and the separate property of each party;

(6) The duration of the marriage;

(7) The age, and the physical and emotional condition of the spouse seeking maintenance;

(8) The ability of the spouse from whom maintenance is sought to meet his **or her** needs while meeting those of the spouse seeking maintenance;

(9) The conduct of the parties during the marriage; and

(10) Any other relevant factors.

3. The maintenance order shall state if it is modifiable or nonmodifiable. The court may order maintenance which includes a termination date. Unless the maintenance order which includes a termination date is nonmodifiable, the court may order the maintenance decreased, increased, terminated, extended, or otherwise modified based upon a substantial and continuing change of circumstances which occurred prior to the termination date of the original order.

**452.339. The general assembly finds and declares that it is the public policy of this state to assure children frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage so long as it is in the best interest of each child, and that it is in the public interest to encourage both parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution.**

**To effectuate such policy, courts shall determine the parenting plans which are in the best interest of the child under all relevant circumstances and which will best assure that both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interest of each child.**

452.340. 1. In a proceeding for dissolution of marriage, legal separation or child support, the court [may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for his support, including an award] **shall determine the obligations of both parents to provide support to each child of the marriage, including support** retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (1) The financial needs and resources of [the] **each** child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living [the] **each** child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of [the] **each** child, and [the] **each** child's educational needs; and
- (5) The [child's physical and legal custody arrangements;] **parenting plan determined to be in the best interest of each child, including the amount of time each child spends with each parent and the reasonable expenses associated with the parenting time schedule and legal custody arrangements; and**

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

2. The obligation of the parent [ordered to make support payments] **obligated to pay support** shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the [other] parent **entitled to receive support** has voluntarily relinquished physical custody of a child to the parent [ordered to pay child support, notwithstanding any periods of] **obligated to pay support. Such provisions shall not apply to periods of parenting time pursuant to a parenting plan**, visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation, or any **order in** modification thereof. In a IV-D case, the division of child support enforcement may, **after notice and an opportunity for hearing**, determine the amount of the abatement [under] **pursuant to** this subsection for any child support order. In such cases, upon notification by the division, the circuit clerk shall record the amount of abatement on the child support trusteeship record established pursuant to this chapter and chapter 454, RSMo.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent [to make child support payments] **obligated to pay support** shall terminate when the child:

- (1) Dies;
- (2) Marries;
- (3) Enters active duty in the military;
- (4) Becomes self-supporting, provided that the [custodial] parent **entitled to receive support** has relinquished the child from parental control by express or implied consent; or
- (5) Reaches age [eighteen] **sixteen**, unless the provisions of subsection 4 or 5 of this section apply.

4. If the child is physically or mentally incapacitated from supporting himself **or herself**, and insolvent and unmarried, the court may extend the [parental] **child** support obligation past

the child's [eighteenth] **sixteenth** birthday.

5. If when a child reaches age [eighteen] **sixteen**, he **or she** is enrolled in and attending a secondary school program of instruction, the [parental] **child** support obligation shall continue, if the child continues to attend **and** progresses toward completion of [said] **a** program, until the child completes [such] **a** program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a **program for a** graduation equivalence [degree] **diploma** and so long as the child enrolls for and completes at least twelve hours of credit each term **or semester, not including the summer term or semester**, at an institution of vocational or higher education and achieves grades sufficient to re-enroll at such institution, the [parental] **child** support obligation shall continue until the child completes his **or her** education, or until the child reaches the age of twenty-two, whichever first occurs. To remain eligible for such continued [parental] **child** support, the child shall, **at the beginning of each term or semester**, submit to each parent [a transcript] **at the parent's last known address an official document** provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term **or semester**, the grades and credits received for each such course, and **an official document from the institution listing** the courses which the child is enrolled in for the upcoming term **or semester** and the number of credits for each such course. If the circumstances of the child manifestly dictate, the court may waive [the October first deadline for enrollment required by] **any requirement of** this subsection. If the child is enrolled in such an institution, the child or [obligated] parent **obligated to pay support** may petition the court to amend the order to direct [the obligated] **such** parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any junior college, **community college**, college[,] or university at which the child attends classes regularly. **A child who has been diagnosed with a learning disability, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, or so long as such child qualifies for support pursuant to subsection 4 of this section.**

6. [At the parent's option, a parent may pay one-half of the college room, board, tuition, mandatory fees and book expenses of the child as a credit reduction in the amount of child support during the months when a child attends school, if such child is enrolled as a full-time student and living away from the family residence for a majority of the school year, unless provisions for payment of college expenses are specified in the parenting plan or court order; except that, if such payment of college expenses is less than the court-ordered child support, the parent shall pay the difference between such college expenses and the court-ordered payment as provided in the court order.] **The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a college age child in favor of the other parent if the application of federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.**

7. [The general assembly finds and declares that it is the public policy of this state to assure that the best interest of the child is frequent, continuing and meaningful contact with both parents except for cases where the court specifically finds that such contact is not in the best

interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner.] A court with jurisdiction may abate, in whole or in part, any future obligation of support and may, **for judgments entered before January 1, 1999**, transfer the physical and legal or physical or legal custody of [one or more children] **a child, or for judgments entered after January 1, 1999, revise the parenting plan or transfer the legal custody of a child** if it finds that a parent has, without good cause, failed to provide **parenting time**, visitation, or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or [modifications] **any order in modification** thereof. The court may also award reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. [Not later than October 13, 1989,] The Missouri supreme court shall have in effect a rule establishing guidelines by which any [award] **order** of child support shall be made in any judicial or administrative proceeding. [Said] **Such** guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. [By July 1, 1996,] The guidelines shall address how the amount of child support shall be calculated when an [award] **order** of joint physical custody **or parenting time** results in the child or children spending substantially equal time with both parents. Not later than July 1, 1998, the **Missouri supreme court shall publish** child support guidelines [shall be published by the supreme court] and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every three years to ensure that its application results in the determination of appropriate child support [award] **order** amounts.

9. Beginning October 13, 1989, there shall be a rebuttable presumption, in any judicial or administrative proceeding for [the award] **an order** of child support, that the amount of the [award] **order** which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be [awarded] **ordered**. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record, **if requested**, shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. [Under] **Pursuant to** this or any other chapter, when a court [determines] **establishes** the amount owed by a parent for support provided to his **or her** child by another person, **other than a parent**, prior to the date of filing of a petition requesting support, or when the director of the division of child support enforcement establishes the amount of state debt due [under] **pursuant to** subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established [under] **pursuant to** subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines [under] **pursuant to** subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly

income is available, the court or director may use the average monthly income of the [noncustodial] parent **obligated to pay support**, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

452.342. The court which issued a judgment or order of child support payments may, upon petition of the party obligated to [make the payments] **pay support** and upon good cause shown, order the [custodial] parent **entitled to receive support** to furnish the party having the support obligation with a regular summary of expenses paid by the [custodial] parent **entitled to receive support** on behalf of the child. The court may prescribe the form and substance of the summary.

452.355. 1. The court [from time to time] **may**, after considering all relevant factors, including the financial resources of both parties [may] **and the conduct of the parties during the marriage and during the proceeding**, order a party to pay a reasonable amount [for the cost to the] **for the costs of any** other party of maintaining or defending any proceeding [under] **pursuant to** sections 452.300 to 452.415 and for **reasonable** attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding [or] **and** after entry of a **final** judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in [his] **the attorney's** name.

2. In any proceeding in which the [nonpayment of child support is an issue under the provisions of a temporary or permanent court order or decree] **failure to pay child support pursuant to a temporary order or final judgment is an issue**, if the court finds that the obligor has failed, without good cause, [to comply with such order or decree] to pay the child support **as ordered**, the court shall order the obligor to pay a reasonable amount [for the cost of the suit to] **toward the costs of** the obligee, including **reasonable** sums for legal services. The court may order that the amount be paid directly to the attorney, who may enforce the order in his **or her** name.

3. For purposes of this section, an "obligor" is a person [owing a duty of] **obligated to pay** support and an "obligee" is a person [to whom a duty of support is owed] **entitled to receive support**.

4. For purposes of this section, "good cause" includes any substantial reason why the [defendant] **obligor** is unable to pay the child support as ordered. Good cause does not exist if the [defendant] **obligor** purposely maintains his **or her** inability to pay.

452.360. 1. A [decree] **judgment** of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from a [decree] **judgment** of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the [decree] **judgment** which dissolves the marriage beyond the time for appealing from that provision, so that either of the parties may remarry pending appeal.

2. The court's [order] **judgment of dissolution of marriage or legal separation** as it affects distribution of marital property shall be a final [order] **judgment** not subject to modification. **The court's judgment of legal separation as it affects maintenance shall be subject to modification for good cause and upon a showing of changed circumstances subsequent to the entry of a judgment of legal separation which warrants a modification. Upon entry of a judgment of dissolution of marriage subsequent to an entry of a judgment**

**of legal separation, the court shall make a finding as to the disposition of any property or debts acquired by any party after the entry of a judgment of legal separation.**

3. No earlier than ninety days after entry of a [decree] **judgment** of legal separation, on motion of either party, the court may convert the [decree] **judgment** of legal separation to a [decree] **judgment** of dissolution of marriage.

4. On motion of both parties, the court shall set aside a [decree] **judgment** of legal separation.

5. The circuit clerk shall give notice of the entry of a [decree] **judgment** of legal separation or dissolution to the department of social services.

452.365. If a party fails to comply with a provision of a [decree] **judgment, marital settlement agreement, parenting plan incorporated in a judgment,** or temporary order or injunction, the obligation of the other party to [make payments for] **pay** support or maintenance or to [permit visitation] **abide by the terms of the parenting plan** is not suspended but [he] **such party** may move the court to grant an appropriate order.

452.370. 1. Except as otherwise provided in subsection [6] **9** of section 452.325, the provisions of any [decree] **judgment** respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance [award] **judgment,** the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, [then] a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount [under] **pursuant to the child support guidelines.**

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, [then] the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the [decree] **judgment,** the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the [decree] **judgment,** provisions for the support of a child are terminated by emancipation of the child. The [custodial] parent **entitled to receive child support** shall have the duty to notify the [noncustodial] parent **obligated to pay support** of the child's emancipation and failing to do so, the [custodial] parent **entitled to receive child support** shall be liable to the [noncustodial] parent **obligated to pay support** for child support paid[, plus interest, to the custodial parent] following emancipation of a minor child, **plus interest.**

5. If a parent has made an assignment of support rights to the division of family services on behalf of the state as a condition of eligibility for benefits pursuant to the [aid to families with dependent children] **temporary assistance for needy families** program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as

a party to the [motion] **proceeding**. The state shall be served with a copy of the motion by sending it by certified mail to the director of the division of child support enforcement.

6. The [circuit] court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the [circuit] clerk of the court in which the support or maintenance order was entered of any change of mailing address. If [a] personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. 666(a)(9)(C), the circuit clerk shall be considered the "appropriate agent" to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising [the issues of custody or visitation] **issues of legal custody or parenting time** is filed in response to a motion to modify child support filed at the request of the division of child support enforcement by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the division of child support enforcement as provided in section 454.400, RSMo, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be [awarded] **ordered** in accordance with such guidelines or regulations.

**452.372. 1. When a person files a petition for dissolution of marriage or legal separation and the legal custody of or parenting time with a minor child is involved, the court shall order all parties to the action to attend educational sessions pursuant to section 452.605. Parties to a modification proceeding who previously have attended educational sessions pursuant to section 452.605 may also be required to attend such educational sessions.**

**2. The court shall order all parties to the action to participate in an alternative dispute resolution program pursuant to supreme court rule, if such program has been established pursuant to subsection 5 of this section, to discuss and resolve any issues in dispute involving legal custody or parenting time, except for good cause shown, unless within sixty days of service of process the parties certify that there are no issues in dispute involving legal custody or parenting time. As used in this section, "good cause" includes, but is not limited to, a finding of domestic abuse. Any alternative dispute resolution program ordered by the court pursuant to this subsection may be paid for by the parties, the cost of which shall be reasonable and customary for the circuit in which the program is ordered.**

**3. The court's order requiring the parties to participate in an alternative dispute resolution program may specifically allocate the costs of the alternative dispute resolution program between the parties, and shall require each party to complete a proposed parenting plan.**

**4. If, after participating in the alternative dispute resolution program or on their own without the necessity of alternative dispute resolution, the parties have reached an**

agreement, the parties shall submit such agreement as a joint parenting plan to the court for approval pursuant to section 452.325.

5. Within one hundred twenty days after the effective date of this section, the Missouri supreme court shall have a rule in effect requiring each circuit to establish an alternative dispute resolution program for proceedings involving issues of legal custody and parenting time relating to the child by no later than December 31, 2001.

452.373. 1. Within one hundred eighty days after the effective date of this section, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to section 452.372 in any dissolution of marriage, legal separation or modification proceeding involving issues of legal custody and parenting time relating to the child. The parties may use the form for formulating a parenting plan and when submitting a joint parenting plan to the court pursuant to section 452.372.

2. A parenting plan shall include:

(1) A parenting time schedule, which shall include:

(a) Major holidays, stating which holidays a parent has each year;

(b) School holidays for school age children;

(c) The child's birthday;

(d) Weekday and weekend schedules, and for school age children, a designation of a residence for purposes of the child's attendance at public school, and where and with whom vacations from school will be spent;

(e) The times for transfer of the child between the parents in connection with the parenting time schedule;

(f) A plan for sharing transportation duties associated with the parenting time schedule;

(g) Appropriate times for telephone access; and

(h) Any suggested restrictions or limitations on parenting time and reasons for the same; and

(2) A specific plan designating joint or sole legal custody and detailing how the decision-making and responsibilities will be shared between the parties, including the following:

(a) Educational decisions and methods of communicating routine information from the school to both parents;

(b) Medical and dental decisions, including how health care providers will be selected and a method of communicating medical conditions of the child, and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when such activities involve time during which each parent is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures, including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a parent suggests no shared decision-making, a statement of the reasons for such request.



452.375. 1. [As used in this section, unless the context clearly indicates otherwise:] **The general assembly finds and declares that it is the public policy of this state to assure children frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage so long as it is in the best interest of the child and that it is in the public interest to encourage both parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. To effectuate such policy, courts shall approve or determine the parenting plans which are in the best interest of each child under all relevant circumstances and which will best assure that both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interest of each child.**

**2. After January 1, 1999, in all proceedings pursuant to sections 452.300 to 452.415 an order for:**

(1) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned[, ] or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities[, ] and authority;

(2) ["Joint physical custody" means an order awarding each of the parents significant periods of time during which a child resides with or is under the care and supervision of each of the parents.] **"Sole legal custody" means one parent has the decision-making rights, responsibilities and authority relating to the child, but unless the court specifically declares otherwise, requires such parent to confer with the other parent regarding significant decisions affecting the health, education and welfare of each child;**

(3) **"Parenting time" means the time a parent is primarily responsible for a child, including such time scheduled by the court pursuant to a parenting plan, or the periods of physical custody and visitation for orders issued prior to January 1, 1999;**

(4) **"Supervised contact" means, based on a finding pursuant to subsection 5 of this section, one parent has parenting time with the child at specific times and for specific periods, but only under the supervision of the other parent or an individual appointed by the court.**

[2.] **3. The court shall determine a parenting time schedule which includes significant, but not necessarily equal periods of time for the child to spend with each parent, except for good cause shown, and legal or third-party custody in accordance with the best interests of the child. The court shall consider all relevant factors including:**

- (1) The wishes of the child's parents as to his custody;
- (2) The wishes of a child as to his custodian;
- (3) The interaction and interrelationship of the child with his parents, his siblings, and any other person who may significantly affect the child's best interests;
- (4) The child's adjustment to his home, school, and community;
- (5) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence from any

further harm;

(6) The needs of the child for a continuing relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(7) The intention of either parent to relocate his residence outside the state; and

(8) Which parent is more likely to allow the child frequent and meaningful contact with the other parent.

3. The court shall not award custody of a child to a parent if such parent has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, when the child was the victim, or a violation of section 568.020, RSMo, when the child was the victim.

4. The general assembly finds and declares that it is the public policy of this state to assure children frequent and meaningful contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share decision-making rights and responsibilities of child rearing. In order to effectuate this policy, the court shall determine the custody arrangement which will best assure that parents share such decision-making responsibility and authority and such frequent and meaningful contact between the child and each parent, as is indicated in the best interests of the child under all relevant circumstances.

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

(1) Joint custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint legal custody award;

(2) Sole custody to either parent; or

(3) Third party custody or visitation:

(a)] **(1) The parenting plan submitted by both parents pursuant to section 452.372 or the parenting plan submitted by each parent if an agreement is not reached;**

**(2) The needs of the child for a continuing relationship with both parents and the ability and willingness of both parents to actively perform their functions as mother and father for the needs of the child;**

**(3) The interaction and inter-relationship of the child with the child's parents, the child's siblings and any other person who may significantly affect the child's best interests;**

**(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;**

**(5) The child's adjustment to his or her home, school and community;**

**(6) The mental and physical health of all individuals involved, including any history of abuse of any parent, child, family member, household member or other individuals involved. If the court finds that a pattern of family violence or abusive behavior by a parent or other family or household member has occurred, and if the court also finds that ordering parenting time or legal custody to the abusive parent is in the best interests of the child, the court shall enter written findings of fact and conclusions of law. Parenting time and legal custody shall be ordered in a manner that best protects the child and the parent or other family or household member who is the victim of family violence or abusive behavior from any further harm;**

**(7) The intention of either parent to relocate his or her residence; and**

**(8) The wishes of the child as to the child's parenting time schedule and legal**

custodian.

The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, RSMo, shall not be a factor that a court considers in determining legal custody of or parenting time with such child or children.

4. The burden of coming forward with evidence that a particular legal custodial arrangement is not in the best interest of the child shall be upon the parent opposing such an arrangement. In the event the court finds that a legal custodial arrangement is not in the best interest of the child and upon the request of a party, the court shall enter a written finding detailing the specific relevant factors that made such an arrangement not in the best interest of the child and shall specify the legal custodial arrangement which the court finds is in the best interest of the child.

5. When the court finds that each parent is unfit, unsuitable, or unable to [be a custodian] fulfill his or her responsibilities as a parent, or the welfare of the child requires, and it is in the best interests of the child, [then] legal custody, temporary custody or visitation may be [awarded to] **ordered to** any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court [awards] **orders legal** custody, temporary custody or visitation to a third person [under] **pursuant to** this subdivision, the court shall make that person a party to the action[;

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

6. A parent's supervised contact or parenting time with a child shall be subject to limitation if it is found that a parent has engaged in any of the following conduct:

(1) Willful abandonment that continues for an extended period of time or substantial refusal to perform parental responsibilities;

(2) Physical, sexual or a pattern of emotional abuse of a child, or pattern of behavior which would endanger a child's physical health; or

(3) A history of or current acts of abuse, as defined in sections 455.010 and 455.501, RSMo, or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

7. The court may limit any provision of the parenting plan based on the best interest of the child, including, but not limited to, any of the following factors:

(1) A parent's neglect or substantial nonperformance of parental responsibilities;

(2) A substantial emotional or physical impairment which significantly interferes with the parent's performance of parental responsibilities;

(3) The absence or substantial impairment of emotional ties between the parent and child;

(4) A parent has withheld parenting time with or decision-making authority concerning the child from the other parent for an unreasonable period of time without good cause; or

(5) Such other factors or conduct as the court expressly finds adverse to the best interest of the child.

8. If a court restricts a parent's parenting time or orders supervised contact, a showing of proof of treatment and rehabilitation shall be made to the court before supervised contact or unrestricted parenting time may be ordered.

**9. The court shall not approve a parenting plan which provides for a parent's unlimited or unsupervised contact with a child, or order legal custody of a child to the parent if such parent has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, when the child was the victim, or, except for section 568.040, RSMo, a violation of chapter 568, RSMo, when a child was the victim.**

[6.] **10.** [Unless otherwise decreed, parents are obligated to exchange information with one another concerning the health, education and welfare of the child. In a decree of sole custody, a court may provide that parents shall confer with one another in the exercise of decision-making rights, responsibilities and authority.] Upon a finding by the court that either parent has refused to exchange information with [one another] **the other parent**, which shall include but not be limited to **information concerning** the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay the prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to **reasonable** attorney's fees and court costs.

[7.] **11** As between the parents of a child, no preference may be given to either parent in the [awarding] **ordering of legal custody or parenting time** because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

[8.] **12.** Any [decree providing for joint custody] **judgment involving a child entitled to support pursuant to section 452.340** shall include a [specific written plan setting forth the terms of such custody. Such plan may be suggested by both parents acting in concert, or one parent acting individually, or if neither of the foregoing occurs, the plan shall be provided by the court. The plan may include a provision for mediation of disputes] **parenting plan, including a specific parenting time schedule. Such plan may be a parenting plan submitted by the parties pursuant to section 452.372 or, in the absence thereof, a plan determined by the court, but** in all cases, the [joint custody] **parenting plan** approved and ordered by the court shall be in the court's discretion.

[9. Unless a noncustodial parent has been denied visitation rights under section 452.400,]

**13. Unless a parent has been denied parenting time and legal custody pursuant to this section, any judgment of dissolution or other applicable court judgment shall specifically allow such parent** access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records[, shall not be denied to a parent because the parent is not the child's custodial parent. If a noncustodial]. **If a parent has been [granted restricted or supervised visitation] ordered to follow a supervised contact schedule** because the court has found that the [custodial] **other** parent or the child has been the victim of domestic violence, as defined in section 455.200, RSMo, by [the noncustodial] **such** parent, the court may order that the reports and records made available pursuant to this subsection not include the address of the [custodial] **other** parent or the child.

[10.] **14. Except as otherwise precluded by state or federal law,** if any individual, professional, public or private institution or organization denies access or fails to provide or disclose any and all records and information, including, but not limited to, past and present dental, medical and school records pertaining to a minor child, to either [the custodial or noncustodial] parent upon the written request of such parent, the court shall, upon its finding that the individual, professional, public or private institution or organization denied such request without good cause, order that party to comply immediately with such request and to pay to the prevailing party all costs incurred, including, but not limited to, **reasonable** attorney's fees and court costs associated

with obtaining the requested information.

[11. An award of joint custody] **15. A parenting plan** does not preclude an [award of] **order for child support pursuant to section 452.340 and applicable supreme court rules.** The court shall consider the factors contained in section 452.340 **and applicable supreme court rules** in determining an amount reasonable or necessary for the support of the child. **For purposes of a child support order as required by the supreme court child support guidelines only, the court shall designate a parent or third party who receives support.**

[12.] **16.** If the court finds that [domestic violence] **abuse, as defined in sections 455.010 and 455.501, RSMo,** has occurred, the court shall make specific findings of fact to show that the [custody or visitation arrangement] **parenting plan** ordered by the court best protects the child and the parent, or other family or household member who is the victim of [domestic violence] **abuse, as defined in sections 455.010 and 455.501, RSMo,** from any further harm.

452.376. 1. Unless a [noncustodial] parent has been denied [visitation rights under section 452.400, such noncustodial parent or any parent who has joint custody of a child] **parenting time pursuant to section 452.375, such parent** shall, upon request and payment of an administrative fee sufficient to cover the cost, receive any deficiency slips, report cards or pertinent progress reports regarding that child's progress in school. If a [noncustodial] parent has [been granted restricted or supervised visitation] **supervised contact with a child, or restricted or supervised visitation pursuant to an order entered prior to January 1, 1999,** because the court has found that the [custodial] **other** parent or the child has been the victim of [domestic violence] **abuse, as defined in [section 455.200] sections 455.010 and 455.501, RSMo,** by the [noncustodial] parent, the court may order that the reports and records made available pursuant to this subsection not include the address of [the custodial] **any** parent or the child.

2. School districts shall annually set an administrative fee estimated to cover the costs of preparing, copying and mailing the student information required to be provided pursuant to this section.

452.377. [A person entitled to the custody of a child] **1. Either parent or any third party having legal custody of, or parenting time or visitation with a child** shall not change the residence of the child [to another state or], **nor** remove the child from this state for a period of time exceeding ninety days [except upon order of the court or with the written consent of the parties with custody or visitation rights. Where the noncustodial person has been given visitation rights by the custody decree, such court permission may be granted only after notice to the person having visitation rights and after opportunity for hearing. Violation of a court order under this section may be deemed a change of circumstance under section 452.410, allowing the court to modify the prior custody decree.] **unless such parent or third party notifies every person entitled to parenting time, visitation or supervised contact with the child of any proposed relocation. For purposes of this section, "relocation" means a change in residence of a child, or a removal of a child from this state for a period of time exceeding ninety days.**

**2. Notice of a proposed relocation of the residence of a child, parent or third party with custody of a child shall be given in writing by certified mail, return receipt requested, to the last known address of the persons to be notified no later than:**

- (1) Sixty days before the date of the proposed relocation; or**
- (2) Five days after the date that the person is informed that he or she is required to relocate, or determines that he or she will relocate, whichever first occurs, if the person**

did not know and could not reasonably have known of the relocation in sufficient time to comply with the sixty days' notice.

3. Absent exceptional circumstances, as determined by the court, the notice of a proposed relocation of the child, parent or third party with custody of the child shall include the following information to the extent known:

(1) The intended new residence, including the specific address, if known, and if not known, the city;

(2) The mailing address of the new residence if not the same;

(3) The home telephone number of the new residence, if known;

(4) The date of the proposed relocation;

(5) A brief statement of the specific reasons for the proposed relocation;

(6) A proposal for a revised parenting plan for the child, if applicable; and

(7) The name, address and telephone number of the new place of employment, if applicable.

4. A person required to give notice of a proposed relocation or change of residence address pursuant to this section has a continuing duty to provide a change in or addition to the information required by this section as soon as such information becomes known.

5. In exceptional circumstances where the court makes a finding that the health or safety of any adult or child would be unreasonably placed at risk by the disclosure of the required identifying information concerning a proposed relocation of the child, the court may order that:

(1) The specific residence address and telephone number of the child, parent or third party, and other identifying information shall not be disclosed in the pleadings, notice, other documents filed in the proceeding or the final order except for an in camera disclosure;

(2) The notice requirements provided by this section shall be waived to the extent necessary to protect the health or safety of a child or any adult; or

(3) Any other remedial action the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

6. The court shall consider a failure to provide notice of a proposed relocation as:

(1) A factor in determining whether a parenting plan or third-party custody arrangements should be modified;

(2) A basis for ordering the return of the child if the relocation occurs without notice; and

(3) Sufficient cause to order the person seeking to relocate to pay reasonable expenses and attorneys fees incurred by the person objecting to the relocation.

7. The residence of the child may be relocated after providing notice, as required by this section, unless a parent files a motion seeking an order to prevent the relocation within fifteen days after receipt of such notice. Such motion shall be accompanied by an affidavit setting forth the specific factual basis supporting a prohibition of the relocation. The person seeking relocation shall file a response to the motion within fifteen days, unless extended by the court for good cause, and include a counter-affidavit setting forth the facts in support of the relocation as well as a proposed revised parenting plan for the child.

8. If relocation of the child is proposed, a third party entitled by court order to legal custody of or visitation with a child and who is not a parent may file a cause of action to

obtain a revised schedule of legal custody or visitation, but shall not prevent a relocation.

9. If the parties agree to a revised parenting plan for the child, they may pay a filing fee and submit the terms of such agreement to the court with a written affidavit signed by all parties with parenting time or third-party custody, supervised contact or visitation assenting to the terms of the agreement and the court may order the revised parenting plan and applicable visitation schedule without a hearing.

10. The court may grant a restraining order prohibiting the relocation of the child or order the return of the child when a relocation has occurred if the court finds:

(1) The required notice of a proposed relocation was not provided in a timely manner and the parties have not provided an agreed upon revised parenting plan for the child for the court's approval;

(2) The child has already relocated without notice, agreement of the parties or court approval; or

(3) The best interest of the child warrants that the child be returned or an order prohibiting the relocation be issued.

11. A hearing on a cause of action filed pursuant to this section shall be given appropriate priority on the court's calendar.

12. When determining the relocation issue, the court shall consider the following factors:

(1) Whether the relocation is in the best interest of the child;

(2) The nature, quality, extent of involvement and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, the child's siblings and other significant persons in the child's life;

(3) The age, developmental stage and needs of the child, and the likely impact that the relocation will have on the child's physical, educational and emotional development taking into consideration any special needs of the child;

(4) The feasibility of preserving the relationship between the nonrelocating person and the child through suitable legal custody or parenting time arrangements considering the distance of the move and the financial resources of the parties to permit frequent, continuing and meaningful contact;

(5) Whether there is an established pattern of conduct of the person seeking relocation either to promote or deter the relationship of the child and the nonrelocating person;

(6) The reasons for the relocation and the reasons for the opposition to the relocation;

(7) Any prior written agreement by the nonrelocating person consenting to the relocation or any prior written agreement by the person seeking to relocate which indicates an agreement not to relocate in the future;

(8) Whether a person seeking or opposing the relocation has completely and in a timely manner complied with the notice requirements;

(9) The likelihood of the person relocating to comply with the parenting plan;

(10) The presence or absence of the child's extended family in the relocation site and at the current residence; and

(11) Any other factor affecting the best interest of the child.

13. If relocation is permitted by the court:

(1) The court may order specific requirements to be met and require the person relocating to provide reasonable security guaranteeing that the relocating person will not interrupt or interfere with the court-ordered parenting plan with, or third-party custody of or visitation with, the child;

(2) The court shall order contact with the other parent or third party including parenting time, third-party custody or visitation, and telephone access sufficient to assure that the child has frequent and meaningful contact with the other parent or third party unless the child's best interest warrants otherwise; and

(3) The court shall specify how the transportation costs will be allocated between the parties and adjust the child support, as appropriate, considering the costs of transportation.

**14. To the extent that a provision of this section conflicts with a custody order in existence on January 1, 1999, this section shall not apply to the terms of such order concerning the relocation of the child, parent or person with custody of the child.**

452.380. 1. A party to a [custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit. The court may award] **proceeding pursuant to this chapter, including a modification proceeding pursuant to section 452.410, may move for an order providing for legal custody or parenting time. The motion shall be supported by an affidavit. The court may order** temporary **parenting time or legal** custody after a hearing or, if there is no objection, solely on the basis of the affidavits.

2. If a proceeding for dissolution of marriage or legal separation is dismissed, any [temporary] **parenting plan or legal** custody order is vacated unless a parent or the child's custodian moves that the proceeding continue [as a custody proceeding] and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child require that a [custody decree be issued] **parenting plan be ordered by the court.**

452.385. The court may interview the child in chambers to ascertain the child's wishes as to his [custodian] **or her parenting time schedule** and **other** relevant matters within his **or her** knowledge. The court shall permit counsel to be present at the interview and to participate therein. The court shall cause a record of the interview to be made and to be made part of the record in the case.

452.400. 1. [A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his emotional development. The court shall define the noncustodial parent's visitation periods in detail at the request of either party. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child. The court shall not grant visitation to the parent not granted custody if such parent has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, when the child was the victim, or a violation of section 568.020, RSMo, when the child was the victim. The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence from any further harm. The court shall make specific findings of fact to show that the visitation arrangements made by the court best protects the child or the parent or other family or household member who is the victim of



domestic violence from any further harm.

2. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his emotional development. When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3.] (1) The court shall mandate compliance with its order by [both the custodial parent and the child] **all parties to the action, including parents, children and third parties**. In the event of noncompliance, the [noncustodial parent] **aggrieved person** may file a **verified** motion for contempt. **If parenting time or third-party court ordered custody, or physical custody or visitation for orders entered before January 1, 1999, is denied or interfered with by a parent or third party, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the person's parenting time with or third-party custody of a minor child pursuant to a judgment of dissolution or legal separation.**

(2) The circuit court shall provide a simple form for pro se motions to the aggrieved person. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. Court costs shall not be charged for a family access motion except for a thirty-five-dollar family access fee.

2. Within five days after the filing of the family access motion pursuant to subsection 1 of this section, the clerk of the court shall mail a copy of the motion filed pursuant to applicable state law, and applicable local or supreme court rules. The notice shall contain the following statement in boldface type: **"PURSUANT TO SECTION 452.400, RSMO, FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE DAYS MAY RESULT IN THE FILING OF A MOTION FOR CONTEMPT OF COURT AGAINST YOU. A FINDING OF CONTEMPT MAY RESULT IN THE CONTEMNOR BEING FINED, IMPRISONED OR ASSESSED ATTORNEY'S FEES."**

3. If an alternative dispute resolution program is available pursuant to supreme court rule, the clerk shall also provide information to all parties on the availability of any such services. If alternative dispute resolution is available, within fourteen days after notice has been mailed, the court may schedule alternative dispute resolution pursuant to supreme court rule. Upon completion of an alternative dispute resolution program, including mediation, the court shall:

(1) Determine whether the ordered alternative dispute resolution or mediation was successful and no further intervention by the court is necessary;

(2) Determine whether the ordered alternative dispute resolution or mediation was not successful as a result of the failure of the aggrieved party to cooperate and intervention

by the court is unnecessary; or

(3) Determine whether the ordered alternative dispute resolution or mediation was not successful and if unsuccessful, advise the aggrieved party of the right to request an order to show cause, and upon filing of such motion, shall issue an order to show cause, unless there is a pending motion alleging that a parenting time order will endanger the child's physical health or impair the child's emotional development. On receipt of a verified motion for contempt, the court shall set a time and place for hearing on the order to show cause which shall not be more than thirty days after the court's determination concerning the ordered alternative dispute resolution or mediation.

4. If an alternative dispute resolution program is not available pursuant to supreme court rule, each circuit may use the thirty-five-dollar family access fee to cover the costs of such program or, if the thirty-five-dollar family access fee is waived pursuant to section 5 of this act, the court shall develop a method appropriate for that court to cover the costs of the program. If alternative dispute resolution is not available and there is no pending motion alleging that enforcing the parenting plan in a judgment of dissolution of marriage or legal separation will endanger the child's physical health or impair the child's emotional development, within fourteen days after notice has been served a hearing shall be scheduled.

5. Upon a finding by the court pursuant to a motion for a family access order that its order for legal custody, parenting time or third-party visitation has not been complied with, without good cause, the court shall [define the noncustodial parent's visitation in detail and shall exercise its discretion in providing] order a remedy, which [shall] may include, but not be limited to[,]:

(1) A compensatory period of [visitation or temporary custody] parenting time or third-party visitation at a time convenient for the [noncustodial parent] aggrieved party not less than the period of time denied[, together with];

(2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;

(3) Assessment of a fine of up to five hundred dollars against the violator. Such fine shall be deposited in the domestic relations resolution fund pursuant to section 452.552;

(4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders;

(5) Ordering the violator to pay the cost of counseling to re-establish the parent-child relationship between the aggrieved party and the child; and

(6) If requested by a party and for good cause shown, a judgment in an amount not less than the reasonable expenses, and court costs actually incurred by the [noncustodial parent] aggrieved party as a result of the denial of visitation, parenting time or custody.

[4.] 6. The attorney's fees and costs of a motion for contempt proceeding to enforce [visitation rights] parenting time, or third-party court-ordered custody or visitation, shall be assessed against the parent or party who unreasonably denies or interferes with parenting time, or third-party custody or visitation. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

7. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless

**waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.**

**8. For purposes of supreme court rule 51, motions filed pursuant to this section shall be heard by the same judge or commissioner that entered the order which is the subject of a motion for a family access order or contempt.**

452.405. [1. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including his education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority the child's physical health would be endangered or his emotional development impaired.

2.] The court may order the county welfare office or the county juvenile officer to exercise continuing supervision over the case.

452.411. If either parent of a child changes his **or her** residence to another state, such change of residence of the parent shall be deemed a change of circumstances [under] **pursuant to** section 452.410, allowing the court to modify a prior **parenting time or legal** custody [decree] **judgment**.

452.416. 1. Notwithstanding any other provision of law to the contrary, whenever a parent in emergency military service has a change in income due to such military service, such change in income shall be considered a change in circumstances so substantial and continuing as to make the terms of any order or judgment for child support or [visitation] **parenting time, or visitation for orders entered before January 1, 1999**, unreasonable.

2. Upon receipt of a notarized letter from the commanding officer of a [noncustodial] parent **obligated to pay child support** in emergency military service which contains the date of the commencement of emergency military service and the compensation of the parent in emergency military service, the director of the division of child support enforcement shall take appropriate action to seek modification of the order [or judgment of] **to pay** child support in accordance with the guidelines and criteria set forth in [supreme court rule 88.01] **section 452.340 and applicable supreme court rules**. Such notification to the director shall constitute an application for services [under] **pursuant to** section 454.425, RSMo.

3. Upon return from emergency military service the parent shall notify the director of the division of child support enforcement who shall take appropriate action to seek modification of the order [or judgment of] **to pay** child support in accordance with the guidelines and criteria set forth in [supreme court rule 88.01] **section 452.340 and applicable supreme court rules**. Such notification to the director shall constitute an application for services [under] **pursuant to** section 454.425, RSMo.

4. As used in this section, the term "emergency military service" means that the parent is a member of a reserve unit or national guard unit which is called into active military duty for a period of more than thirty days.

452.420. All proceedings authorized in chapter 452 to be maintained in circuit court shall be heard by circuit judges, except that [said] **such** proceedings may be heard by an associate circuit judge **or commissioner** if he **or she** is assigned to hear such case or class of cases or if he **or she** is transferred to hear such case or class of cases pursuant to other provisions of law or section 6 of article V of the constitution.

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal separation where **legal** custody, [visitation,] **parenting time** or support of a child is a contested

issue, the court may appoint a guardian ad litem. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged. **Disqualification of a guardian ad litem shall be ordered upon the filing of a written application by any party within ten days of appointment, or at least ten days before trial if the appointment occurs prior to the effective date of this act. Each party shall be entitled one disqualification of a guardian ad litem in each proceeding, except for good cause shown.**

2. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

(2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;

(3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

452.490. 1. The court may order any party to the proceeding who is in this state to appear personally before the court. If the court finds the physical presence of the child in court to be in the best interests of the child, the court may order that the party who has physical custody of the child appear personally with the child.

2. If a party to the proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that the notice given [under] **pursuant to** section 452.460 include a statement directing that party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear [under] **pursuant to** subsection 1 of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so

appointed shall be an attorney licensed to practice law in the state of Missouri. **Disqualification of a guardian ad litem shall be ordered upon the filing of a written application by any party within ten days of appointment, or at least ten days before trial if the appointment occurs prior to the effective date of this act. Each party shall be entitled one disqualification of a guardian ad litem in each proceeding, except for good cause shown.** The guardian ad litem may, for the purpose of determining legal custody of the child only, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

**452.552. In addition to any other court costs required to institute an action pursuant to section 452.310, a surcharge of ten dollars shall be paid by the person filing such action. The surcharge shall be collected and disbursed in a manner provided by sections 488.012 to 488.020, RSMo, by the court clerk at the time the petition is filed and shall be payable to the director of revenue for deposit in the domestic relations resolution fund established in section 452.554.**

**452.554. There is established in the state treasury a special fund to be known as the "Domestic Relations Resolution Fund". The director of revenue shall credit to and deposit all amounts received pursuant to section 452.552 and all fines imposed pursuant to section 452.400 to the fund. The general assembly shall appropriate moneys annually from the domestic relations resolution fund to the state courts administrator, who shall reimburse local judicial circuits for the costs associated with the implementation of this act. The provisions of section 33.080, RSMo, shall not apply to the domestic relations resolution fund.**

**452.556. 1. The state courts administrator shall create a handbook or be responsible for the approval of a handbook outlining the following:**

- (1) What is included in a parenting plan;**
  - (2) The benefits of the parties agreeing to a parenting plan which outlines education, parenting time and cooperation between parents;**
  - (3) The benefits of alternative dispute resolution;**
  - (4) The pro se family access motion for enforcement of parenting time;**
  - (5) The underlying assumptions for supreme court rules relating to child support;**
- and**
- (6) A party's duties and responsibilities pursuant to section 452.377, including the possible consequences of not complying with section 452.377.**

**The handbooks shall be distributed to each court and shall be available in an alternative format, including braille, large print, or electronic or audio format upon request by a person with a disability, as defined by the federal Americans with Disabilities Act.**

**2. Each court shall mail a copy of the handbook developed pursuant to subsection 1 of this section to each party in a dissolution or legal separation action filed pursuant to section 452.310, or any proceeding in modification thereof, where minor children are involved.**

**3. The court shall make the handbook available to interested state agencies and members of the public.**

**452.600. The circuit courts [of the fifth, sixth, twenty-third, twenty-ninth, thirtieth, thirty-first and thirty-eighth judicial circuits, by local rule, may] shall establish a program of**

educational sessions for parties to actions for **legal separation or** dissolution of marriage, or in postjudgment proceedings involving [custody or support] **parenting plans**, concerning the effects of dissolution of marriage on minor children of the marriage **and the benefits of alternative dispute resolution, including mediation**. **Educational sessions shall not be required for proceedings involving only the determination of child support**. In lieu of establishing such a program, the circuit court may, [by local rule,] designate a similar program of educational sessions offered by a private or public entity.

452.605. In an action for dissolution of marriage, **legal separation or modification thereof** involving minor children, or in a postjudgment proceeding wherein custody or support of minor children is to be determined by the court, [the court may on its own motion] **the court shall, except for good cause**, order the parties[, including the minor children,] to attend educational sessions concerning the effects of dissolution of marriage on children[, if the court finds that doing so would be in the best interests of the minor children]. **As used in this section "good cause" includes, but is not limited to, situations where the safety of a party may be endangered by attending the educational sessions. The court may order the minor children to attend age-appropriate education sessions.**

454.390. The division shall [respond within five business days to] **use high-volume automated administrative enforcement, to the same extent as used in intrastate cases, in response to** a request made by another state child support agency to enforce a support order **and promptly report the results to the requesting state**. If the division provides assistance to another state in such a case, neither this state nor the requesting state shall consider the case to be transferred to its caseload; however, the division shall maintain records of the number of such interstate requests for assistance, the number of cases for which support was collected and the amounts of such collections. The division is authorized to transmit to another state, by electronic or other means, a request for assistance in a case involving the enforcement of a support order. Such request shall:

(1) Include information to enable the receiving state to compare the information about the case to the information in state databases; and

(2) Constitute a certification by the division of the arrearage amount under the order and that the division has complied with all applicable procedural due process requirements as provided for in this chapter.

454.408. The division of child support enforcement:

(1) Shall determine whether a person who has applied for or is receiving assistance from a program funded pursuant to Part A **or Part E** or Title IV [or] **of the Social Security Act**, Title XIX of the Social Security Act **or the Food Stamp Act** is cooperating in good faith with the division in establishing the paternity of, or in establishing, modifying or enforcing a support order for any child of such person by providing the division with the name of the [noncustodial] parent **obligated to pay support** or any other information the division may require. The division may, by regulation, excuse compliance with the provisions of this subsection on a case-by-case basis for good cause or other exceptions as the division may deem to be in the best interest of the child;

(2) Shall require as a condition of cooperation that such person supply additional information deemed necessary by the division and appear at any interviews, hearings or legal proceedings;

(3) Shall require as a condition of cooperation that such person and such person's child submit to genetic testing pursuant to a judicial or administrative order;

(4) May request that such person sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require such person to sign an acknowledgment or otherwise relinquish the right to a genetic test as a condition of cooperation and eligibility for assistance from a state program funded pursuant to Part A or Part E of Title IV [or] of the **Social Security Act**, Title XIX of the Social Security Act or the **Food Stamp Act**; and

(5) Shall promptly notify such person, the division of family services or the division of medical services of every determination made pursuant to this section, including a determination that such person is not cooperative and the basis for such determination.

454.413. 1. Each party to a paternity or child support proceeding establishing, modifying or enforcing a support order pursuant to chapter 210, RSMo, chapter 211, RSMo, chapter 452, RSMo, or chapter 454, shall file with the [court or division where such proceeding is pending, and with the court or division for the] state case registry upon entry of an order, information on the location and identity of such party including the party's social security number, residential address, mailing address, telephone number, driver's license number and the name, address and telephone number of the party's employer. If such information changes, such party shall provide the new information to the [court or division] **state case registry** within thirty days of any such change.

2. In any subsequent child support enforcement action between the parties, the court or division [may] **shall** deem that the due process requirements for notice and service of process are met with respect to such party upon a sufficient showing that diligent effort has been made to ascertain the location of a party **including written notice by certified mail to the last known address of the party and attempted service by publication**, and written notice has been delivered to the most recent residential or employer address of such party filed with the [court or division] **state case registry**.

454.432. 1. The circuit clerk shall record credits on child support trusteeship records established pursuant to this chapter or chapter 452, RSMo, for amounts not received by the clerk only to the extent permitted by this section.

2. Credits allowed [under] **pursuant to** this section shall include, but not be limited to, in-kind payments as provided in this section, amounts collected from an obligor from federal and state income tax refunds, state lottery payments, social security payments, unemployment and workers' compensation benefits, income withholdings authorized by law, liens, garnishment actions, and any other amounts required to be credited by statute or case law.

3. Credits shall be recorded on the trusteeship record for payments received by the division of child support enforcement and, at the discretion of the division of child support enforcement, and upon receipt of waivers requested pursuant to subsection 4 of this section, credits may be given on state debt judgments obtained pursuant to subsection 1 of section 454.465 for completion of such activities as job training and education, if mutually agreed upon by the division and the obligor. The circuit clerk shall make such credits upon receipt of paper or electronic documentation of the amount of the credit from the division and verification of the authenticity of the documentation by the circuit clerk.

4. The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements [under] **pursuant to** federal law necessary to implement the provisions of subsection 3 of this section.

5. Credits shall be entered on the trusteeship record for direct and in-kind payments

received by the [custodial] parent **entitled to receive support** when [all parties to the support order file] **such parent files** an affidavit stating the particulars of the direct and in-kind payments to be credited on the court record with the circuit clerk; however, no such credits shall be entered for periods during which child support payments are assigned to the state pursuant to law. Such credits may include, but shall not be limited to, partial and complete satisfaction of judgment for support arrearages.

6. Nothing contained in this section shall prohibit satisfaction of judgment as provided for in sections 511.570 to 511.620, RSMo, and by supreme court rule.

7. Application for the federal earned income tax credit shall, when applicable, be required as a condition of participating in the alternative child support credit programs of subsection 3 of this section.

454.440. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Business" includes any corporation, partnership, association, individual, and labor or other organization including, but not limited to, a public utility or cable company;

(2) "Division", the Missouri division of child support enforcement of the department of social services;

(3) "Financial entity" includes any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit as a business;

(4) "Government agency", any department, board, bureau or other agency of this state or any political subdivision of the state;

(5) "Information" includes, but is not necessarily limited to, the following items:

(a) Full name of the parent;

(b) Social security number of the parent;

(c) Date of birth of the parent;

(d) Last known mailing and residential address of the parent;

(e) Amount of wages, salaries, earnings or commissions earned by or paid to the parent;

(f) Number of dependents declared by the parent on state and federal tax information and reporting forms;

(g) Name of company, policy numbers and dependent coverage for any medical insurance carried by or on behalf of the parent;

(h) Name of company, policy numbers and cash values, if any, for any life insurance policies or annuity contracts, carried by or on behalf of, or owned by, the parent;

(i) Any retirement benefits, pension plans or stock purchase plans maintained on behalf of, or owned by, the parent and the values thereof, employee contributions thereto, and the extent to which each benefit or plan is vested;

(j) Vital statistics, including records of marriage, birth or divorce;

(k) Tax and revenue records, including information on residence address, employer, income or assets;

(l) Records concerning real or personal property;

(m) Records of occupational, professional or recreational licenses or permits;

(n) Records concerning the ownership and control of corporations, partnerships or other businesses;

(o) Employment security records;



- (p) Records concerning motor vehicles;
  - (q) Records of assets or liabilities;
  - (r) Corrections records;
  - (s) Names and addresses of employers of parents;
  - (t) Motor vehicle records; and
  - (u) Law enforcement records;
- (6) "Parent", a biological or adoptive parent, including a presumed or putative father.

2. For the purpose of locating and determining financial resources of the parents relating to establishment of paternity or to establish, modify or enforce support orders, the division or other state IV-D agency may request and receive information from the federal Parent Locator Service, from available records in other states, territories and the District of Columbia, from the records of all government agencies, and from businesses and financial entities. A request for information from a public utility or cable television company shall be made by subpoena authorized pursuant to this chapter. The government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential. In addition, the division [or other state IV-D agency] may **use all sources of information and available records and**, pursuant to agreement with the secretary of the United States Department of Health and Human Services, or the secretary's designee, request and receive from the federal Parent Locator Service information [authorized] pursuant to 42 U.S.C. [Section] **Sections 653 and 663**, to determine the whereabouts of any parent or child when such information is to be used to locate the parent or child to enforce any state or federal law with respect to the unlawful taking or restraining of a child, or **of making or enforcing a child custody, parenting time** or visitation order.

3. Notwithstanding the provisions of subsection 2 of this section, no financial entity shall be required to provide the information requested by the division or other state IV-D agency unless the division or other state IV-D agency alleges that the parent about whom the information is sought is an officer, agent, member, employee, depositor, customer or the insured of the financial institution, or unless the division or other state IV-D agency has complied with the provisions of section 660.330, RSMo.

4. Any business or financial entity which has received a request from the division or other state IV-D agency as provided by subsections 2 and 3 of this section shall provide the requested information or a statement that any or all of the requested information is not known or available to the business or financial entity, within sixty days of receipt of the request and shall be liable to the state for civil penalties up to one hundred dollars for each day after such sixty-day period in which it fails to provide the information so requested. Upon request of the division or other state IV-D agency, the attorney general shall bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

5. Any business or financial entity, or any officer, agent or employee of such entity, participating in good faith in providing information requested pursuant to subsections 2 and 3 of this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the division.

6. Upon request of the division or other state IV-D agency, any parent shall complete a statement under oath, upon such form as the division or other state IV-D agency may specify, providing information, including, but not necessarily limited to, the parent's monthly income, the

parent's total income for the previous year, the number and name of the parent's dependents and the amount of support the parent provides to each, the nature and extent of the parent's assets, and such other information pertinent to the support of the dependent as the division or other state IV-D agency may request. Upon request of the division or other state IV-D agency, such statements shall be completed annually. Failure to comply with this subsection is a class A misdemeanor.

7. The disclosure of any information provided to the business or financial entity by the division or other state IV-D agency, or the disclosure of any information regarding the identity of any applicant for or recipient of public assistance, by an officer or employee of any business or financial entity, or by any person receiving such information from such employee or officer is prohibited. Any person violating this subsection is guilty of a class A misdemeanor.

8. Any person who willfully requests, obtains or seeks to obtain information pursuant to this section under false pretenses, or who willfully communicates or seeks to communicate such information to any agency or person except pursuant to this chapter, is guilty of a class A misdemeanor.

9. For the protection of applicants and recipients of services pursuant to sections 454.400 to 454.645, all officers and employees of, and persons and entities under contract to, the state of Missouri are prohibited, except as otherwise provided in this subsection, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of services or relating to proceedings or actions to establish paternity or to establish or enforce support, or relating to the contents of any records, files, papers and communications, except in the administration of the child support program or the administration of public assistance, including civil or criminal proceedings or investigations conducted in connection with the administration of the child support program or the administration of public assistance. Such officers, employees, persons or entities are specifically prohibited from disclosing any information relating to the location of one party to another party:

- (1) If a protective order has been entered against the other party; or
- (2) If there is reason to believe that such disclosure of information may result in physical or emotional harm to the other party.

In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of child support services or public assistance, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence. Nothing in this subsection shall be construed to prohibit the circuit clerk from releasing information, not otherwise privileged, from court records for reasons other than the administration of the child support program, if such information does not identify any individual as an applicant for or recipient of services pursuant to sections 454.400 to 454.645. Anyone who purposely or knowingly violates this subsection is guilty of a class A misdemeanor.

454.455. 1. In any case wherein an order for child support has been entered and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, and the caretaker relative makes an assignment of support rights to the division of family services in order to receive [aid to families with dependent children] **temporary assistance for needy families** benefits, the relinquishment and the assignment, by operation of law, shall transfer the child support obligation

pursuant to the order to the division in behalf of the state. The assignment shall terminate when the caretaker relative no longer has physical custody of the child, except for those unpaid support obligations still owing to the state pursuant to the assignment at that time.

2. As used in subsection 1 of this section, the term "caretaker relative" includes only those persons listed in subdivision (2) of subsection 1 of section 208.040, RSMo.

3. If an order for child support has been entered, no assignment of support has been made, and the legal custodian and obligee under the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, **or the child is placed by the court in the legal custody of a state agency**, the division may, thirty days after the transfer of custody and upon notice to the obligor and obligee, direct the obligor or other payor to change the payee to the caretaker relative or appropriate state agency. Such order shall terminate when the caretaker relative no longer has physical custody of the child, **or the state agency is relieved of legal custody**, except for the unpaid support obligations still owed to the caretaker relative.

4. If there has been an assignment of support to an agency or division of the state or a requirement to pay through a state disbursement unit, the division may, upon notice to the obligor and obligee, direct the obligor or other payor to change the payee to the appropriate state agency.

454.460. As used in sections 454.460 to 454.520, unless the context clearly indicates otherwise, the following terms mean:

(1) "Court", any circuit court of this state and any court or agency of any other state having jurisdiction to determine the liability of persons for the support of another person;

(2) "Court order", any judgment, decree, or order of any court which orders payment of a set or determinable amount of support money;

(3) "Department", the department of social services of the state of Missouri;

(4) "Dependent child", any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(5) "Director", the director of the division of child support enforcement, or the director's designee;

(6) "Division", the division of child support enforcement of the department of social services of the state of Missouri;

(7) "IV-D agency", an agency designated by a state to administer programs under Title IV-D of the Social Security Act;

(8) "IV-D case", a case in which services are being provided pursuant to section 454.400;

(9) "Obligee", any person to whom payments are required to be made pursuant to the terms of a court order for a child, spouse or former spouse;

(10) "Obligor", any person required to make payments pursuant to the terms of a court order for a child, spouse or former spouse;

(11) "Parent", the biological or adoptive father or mother of a dependent child;

(12) "Public assistance", any cash or benefit under Part IV-A or Title XIX of the federal Social Security Act paid by the department to or for the benefit of any dependent child or any public assistance assigned to the state;

(13) "State", any state or political subdivision, territory or possession of the United States, District of Columbia, and the Commonwealth of Puerto Rico;

(14) "Support order", a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or administrative agency of competent jurisdiction for the

support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or [a child and] of the parent with whom the child is living and providing monetary support, health care, child care, arrearages or reimbursement for such child, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.

**454.478. In cases where an administrative order is entered pursuant to the provisions of section 454.470 or section 454.476, the director of the division of child support enforcement may, upon petition of the party obligated to pay support and upon good cause shown, order the recipient to furnish the party obligated to pay support with a regular summary of expenses paid by such parent on behalf of the child. The director shall prescribe the form and substance of the summary.**

454.490. 1. A true copy of any order entered by the director pursuant to sections 454.460 to 454.997, along with a true copy of the return of service, may be filed with the clerk of the circuit court in the county in which [either the parent or the dependent child resides] **the judgment of dissolution or paternity has been entered, or if no such judgment was entered, in the county where the support order was filed.** Upon filing, the clerk shall enter the order in the judgment docket. Upon docketing, the order shall have all the force, effect, and attributes of a docketed order or decree of the circuit court, including, but not limited to, lien effect and enforceability by supplementary proceedings, contempt of court, execution and garnishment. Any administrative order or decision of the division of child support enforcement filed in the office of the circuit clerk of the court shall not be required to be signed by an attorney, as provided by supreme court rule of civil procedures 55.03(a), or required to have any further pleading other than the director's order.

2. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, the court may, upon petition by the division, require that an obligor who owes past due support [to a child receiving assistance under Part IV-A of the Social Security Act] to pay support in accordance with a plan approved by the court, or if the obligor is subject to such plan and is not incapacitated, the court may require the obligor to participate in work activities.

3. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, division or other IV-D agency, the director may order that an obligor who owes past due support [to a child receiving assistance under Part IV-A of the Social Security Act] to pay support in accordance with a plan approved by the director, or if the obligor is subject to such plan and is not incapacitated, the director may order the obligor to participate in work activities. The order of the director shall be filed with a court pursuant to subsection 1 of this section and shall be enforceable as an order of the court.

4. As used in this section, "work activities" include:
- (1) Unsubsidized employment;
  - (2) Subsidized private sector employment;
  - (3) Subsidized public sector employment;
  - (4) Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
  - (5) On-the-job training;
  - (6) Job search and readiness assistance;
  - (7) Community services programs;

- (8) Vocational educational training, not to exceed twelve months for any individual;
- (9) Job skills training directly related to employment;
- (10) Education directly related to employment for an individual who has not received a high school diploma or its equivalent;
- (11) Satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalence for an individual who has not completed secondary school or received such a certificate; or
- (12) The provision of child care services to an individual who is participating in a community service program.

454.505. 1. In addition to any other remedy provided by law for the enforcement of support, if [an] **a support** order has been entered [by the director pursuant to sections 454.460 to 454.997], the director shall issue an order directing any employer or other payor of the parent to withhold and pay over to the [department] **division** or the clerk of the circuit court in the county in which [the order of the director was docketed pursuant to section 454.490] **a trusteeship is or will be established**, money due or to become due the obligated parent in an amount not to exceed federal wage garnishment limitations. For administrative child support orders issued pursuant to sections other than section 454.476, the director shall not issue an order to withhold and pay over in any case in which:

(1) One of the parties demonstrates, and the director finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding shall be based on, at least, a written determination and an explanation by the director that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative payment arrangement. If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section, without further exception, on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation.

2. An order entered pursuant to this section shall recite the amount required to be paid as continuing support, the amount to be paid monthly for arrearages and the social security number of the obligor if available.

In addition, the order shall contain a provision that the obligor shall notify the division of child support enforcement regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. A copy of sections 454.460 and 454.505 shall be appended to the order. A copy of such order shall be filed with the circuit court in the county in which the [administrative support order was filed pursuant to section 454.490] **trusteeship is or will be established**.

3. An order entered pursuant to this section shall be served on the employer or other payor by certified mail, return receipt requested or may be issued through electronic means, and shall be binding on the employer or other payor two weeks after mailing or electronic issuance of such service. A copy of the order and a notice of property exempt from withholding shall be

mailed to the obligor at the obligor's last known address. The notice shall advise the obligor that the withholding has commenced and the procedures to contest such withholding pursuant to section 454.475 on the grounds that such withholding or the amount withheld is improper due to a mistake of fact by requesting a hearing thirty days from mailing the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the withholding or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The obligor may not obtain relief from the withholding by paying the overdue support. The employer or other payor shall withhold from the earnings or other income of each obligor the amount specified in the order, and may deduct an additional sum not to exceed six dollars **per month** as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b). The employer or other payor shall transmit the payments as directed in the order within seven business days of the date the earnings, money due or other income was payable to the obligor. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payor shall, along with the amounts transmitted, provide the date the amount was withheld from each obligor. If the order does not contain the social security number of the obligor, the employer or other payor shall not be liable for withholding from the incorrect obligor.

4. If the order is served on a payor other than an employer, it shall be a lien against any money due or to become due the obligated parent which is in the possession of the payor on the date of service or which may come into the possession of the payor after service until further order of the director, except for any deposits held in two or more names in a financial institution.

5. The department shall notify an employer or other payor upon whom such an order has been directed whenever all arrearages have been paid in full, and whenever, for any other reason, the amount required to be withheld and paid over to the department pursuant to the order as to future pay periods is to be reduced or redirected. If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or other payor may, at the request of the parent and with the consent of the director, withhold and pay over to the department, an equal amount at each pay period cumulatively sufficient to comply with the withholding order.

6. An order issued pursuant to subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payor upon whom it is directed until a further order of the director. Such orders shall terminate when all children for whom the support order applies are emancipated or deceased, or the support obligation otherwise ends, and all arrearages are paid. No order to withhold shall be terminated solely because the obligor has fully paid arrearages.

7. An order issued pursuant to subsection 1 of this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 452.350, RSMo, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations, the employer shall first satisfy current support obligations by dividing the amount available to be

withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

8. No employer or other payor who complies with an order entered pursuant to this section shall be liable to the parent, or to any other person claiming rights derived from the parent, for wrongful withholding. An employer or other payor who fails or refuses to withhold or pay the amounts as ordered pursuant to this section shall be liable to the party holding the support rights in an amount equal to the amount which became due the parent during the relevant period and which, pursuant to the order, should have been withheld and paid over. The director is hereby authorized to bring an action in circuit court to determine the liability of an employer or other payor for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the employer in an amount not to exceed five hundred dollars. The court may also enter a judgment against the employer for the amounts to be withheld or paid, court costs and reasonable attorney's fees.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payor of the obligated parent in the same manner and to the same extent as where the employer or other payor is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result of such order. This presumption shall be overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated because of the order to withhold and pay over certain money. The director is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed one hundred fifty dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's fees, and for the amount of child support which should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If an obligor for whom an order to withhold has been issued pursuant to subsection 1 of this section terminates the obligor's employment, the employer shall, within ten days of the termination, notify the division of the termination, shall provide to the division the last known address of the obligor, if known to the employer, and shall provide to the department the name and address of the obligor's new employer, if known. When the department determines the identity of the obligor's new employer, the director shall issue an order to the new employer as provided in subsection 1 of this section.

12. If an employer or other payor is withholding amounts for more than one order issued pursuant to subsection 1 of this section, the employer or other payor may transmit all such withholdings which are to be remitted to the same circuit clerk or other collection unit as one payment together with a separate list identifying obligors for whom a withholding has been made and the amount withheld from each obligor so listed, and the withholding date or dates for each obligor.

13. For purposes of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

14. The employer shall withhold funds as directed in the notice, except if an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (1) The employer's fee for processing an income withholding order;
- (2) The maximum amount permitted to be withheld from the obligor's income;
- (3) The time periods within which the employer shall implement the income withholding order and forward the child support payments;
- (4) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (5) Any withholding terms and conditions not specified in the order.

15. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the director shall use such notice prescribed by the secretary.

**454.999. The provisions of sections 210.822 and 210.834, RSMo, shall apply to a proceeding pursuant to sections 454.850 to 454.997, but no other provisions of sections 210.817 to 210.852, RSMo, shall apply.**

**454.1031. All penalties that apply to an obligor in sections 454.1000 to 454.1029 shall also apply to any person who has, without good cause as determined by a court with jurisdiction, denied or interfered with any order for parenting time, visitation or custody for two or more consecutive periods. Any such penalties shall be imposed by a court with jurisdiction, and may be modified or vacated by the court for good cause shown, and the division shall have no jurisdiction over such matters.**

476.688. Except as provided in section 104.312, RSMo, the compensation provided for in sections 476.455 to 476.688, and any benefits consolidated with the compensation, shall be treated like any other state retirement benefits payable by the Missouri state employees' retirement system and shall not be subject to execution, garnishment, attachment, writ of sequestration or any other process or claim whatsoever, and shall be unassignable **except with regard to the collection of child support or maintenance.**

**537.044. The torts of alienation of affection and conspiracy to alienate affection are hereby abolished in this state.**

556.036. 1. A prosecution for murder or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 has expired, a prosecution may nevertheless be commenced for:

- (1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who



has a legal duty to represent an aggrieved party and who is himself **or herself** not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction [under] **pursuant to** section 407.553, RSMo, for purposes of offenses committed [under] **pursuant to** sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; **and**

(3) **Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.**

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced either when an indictment is found or an information filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself **or herself** from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

**Section 1. Any court order relating to child custody, child support, visitation, or modification of child custody, support or visitation entered before January 1, 1999, shall not be subject to modification based solely on the changes in chapter 452, RSMo, and chapter 454, RSMo, concerning parenting time until after January 1, 2000.**

**Section 2. From the date of filing of the petition for dissolution of marriage or legal separation, no party shall terminate coverage during the pendency of the proceeding for any other party or any minor child of the marriage under any existing policy of health, dental or vision insurance.**

**Section 3. 1. Whenever a parent or other person receives support moneys for a child paid to him or her by the division of child support enforcement pursuant to the provisions of chapter 454, RSMo, and the division subsequently determines that such payment, through no fault of the division, was erroneously made, either in good faith, or due to fraud or receipt of inaccurate information from the recipient of such support, such parent or other person shall be indebted to the division in an amount equal to the amount of the support money received by the parent or other person for that child. The division may utilize any available administrative or legal process to collect the erroneously paid support to effect recoupment and satisfaction of the debt incurred by reason of the failure**

of such parent or other person to reimburse the division for such erroneously paid child support. The division is also authorized to make a setoff to effect satisfaction of the debt by deduction from support moneys in its possession or in the possession of any clerk of the court or other forwarding agent which would otherwise be payable to such parent or other person for the satisfaction of any support reimbursement. Nothing in this section authorizes the division to make a setoff as to current support paid during the month for which the payment is due and owing.

2. A person commits the crime of stealing, as defined by section 570.030, RSMo, if he or she knowingly retains possession of child support payments which have been erroneously paid by the division through no fault of the division and the division has requested reimbursement of such support paid, if the purpose is to deprive the division of such reimbursement, either without the consent of the division or by means of deceit or coercion.

Section 4. To ensure compliance with the parenting time schedules established by parenting plans or court orders, the court may require parents, or parents may agree, to bring the minor children to a neutral location for the exchange pursuant to such plans or orders. Such location may include a center specifically established for such exchanges or an existing location suitable for such exchanges. A neutral third party may be present at each exchange to provide an accurate documentation of the compliance or noncompliance with the ordered exchange.

Section 5. The family access fee of thirty-five dollars established in section 452.400, RSMo, shall be collected and disbursed in a manner provided by sections 488.012 to 488.020, RSMo, by the court clerk at the time the petition is filed. The court may waive such fee, in whole or in part, upon motion of the party and for good cause shown. Such fee shall be payable to the "Family Services and Justice Fund" which shall be established in each county within a judicial circuit having a family court for the purpose of paying for the local costs associated with family access motions and alternative dispute resolution pursuant to section 452.400, RSMo. Any circuit which does not have a family court shall establish a "Family Services and Justice Fund" within that circuit to aid in the payment of the local costs associated with family access motions and alternative dispute resolution offered by that circuit's courts pursuant to section 452.400, RSMo.

Section 6. Upon written request of a parent of a child, as defined in section 452.302, RSMo, who is receiving medical assistance pursuant to section 208.151, RSMo, the division of family services shall provide such parent with documentation that allows the child to obtain medical assistance. This section shall not apply to parents of children in the custody of a public agency.

Section 7. Any court order for the legal custody of or parenting time with a child, or for visitation with a child for orders entered before January 1, 1999, may include a provision that the sheriff or other law enforcement officer shall enforce the rights of either parent to custody, parenting time or visitation, as the case may be, unless the court issues a subsequent order pursuant to chapter 210, RSMo, chapter 211, RSMo, chapter 452, RSMo, or chapter 455, RSMo, to limit or deny either parent's access to the child. Such sheriff or law enforcement officer shall not remove a child from a person who has actual possession of the child unless such sheriff or officer is shown a court order or judgment which clearly and convincingly verifies that such person is not entitled to the actual

possession of the child, and that there are not other exigent circumstances that would give the sheriff or other law enforcement officer reasonable suspicion to believe that a child would be harmed or endangered, or that the court order presented to the sheriff or other law enforcement officer may not be valid.

**Section 8. No garnishment, withholding, or other financial legal proceeding shall be levied or maintained against a party whose child support obligation has been fulfilled or brought to term by such responsible party unless entered into voluntarily by such party or by court order. The burden of proving noncompliance of such party shall rest with the division of child support enforcement, and shall verify such noncompliance upon request.**

Section B. Section A of this act shall become effective January 1, 1999.

Unofficial

Bill

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