

SECOND REGULAR SESSION

SENATE BILL NO. 556

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIMS.

Pre-filed December 1, 1997, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S1884.011

AN ACT

To repeal section 452.400, RSMo Supp. 1997, relating to visitation, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 452.400, RSMo Supp. 1997, is repealed and one new section enacted in lieu thereof, to be known as section 452.400, to read as follows:

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, **when the child was the victim**, of chapter 566, RSMo, [when the child was the victim, or a violation of] **or** section 568.020, RSMo, [when the child was the victim] **or an offense which, if committed in this state, would be a felony violation of chapter 566, RSMo, or section 568.020, RSMo.** 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

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

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. The court shall mandate compliance with its order by both the custodial parent and the child. In the event of noncompliance, the noncustodial parent may file a motion for contempt. Upon a finding by the court that its order for 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 a remedy, which shall include, but not be limited to, a compensatory period of visitation or temporary custody at a time convenient for the noncustodial parent not less than the period of time denied, together with a judgment in an amount not less than the reasonable expenses incurred by the noncustodial parent as a result of denial of visitation.

4. The attorney's fees and costs of a proceeding to enforce visitation rights shall be assessed against the parent who unreasonably denies or interferes with 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.

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