

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 651
89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCKENNA.

Offered April 7, 1998.

Senate Substitute adopted, April 7, 1998.

Taken up for Perfection April 7, 1998. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S2488.20P

AN ACT

To repeal sections 104.540, 210.826, 210.830, 452.150, 452.310, 452.355, 452.377, 452.405, 452.411, 452.416, 452.600, 452.605 and 454.432, RSMo 1994, and sections 193.215, 210.109, 210.822, 287.820, 452.340, 452.375, 452.400, 452.423, 452.490, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505 and 476.688, RSMo Supp. 1997, relating to child custody and child support proceedings, and to enact in lieu thereof thirty-eight new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 104.540, 210.826, 210.830, 452.150, 452.310, 452.355, 452.377, 452.405, 452.411, 452.416, 452.600, 452.605 and 454.432, RSMo 1994, and sections 193.215, 210.109, 210.822, 287.820, 452.340, 452.375, 452.400, 452.423, 452.490, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505 and 476.688, RSMo Supp. 1997, are repealed and thirty-eight new sections enacted in lieu thereof, to be known as sections 104.540, 193.215, 210.109, 210.822, 210.826, 210.830, 210.844, 287.820, 452.150, 452.310, 452.340, 452.355, 452.373, 452.375, 452.377, 452.400, 452.405, 452.411, 452.416, 452.423, 452.490, 452.600, 452.605, 454.390, 454.408, 454.413, 454.432, 454.440, 454.455, 454.460, 454.490, 454.505, 454.999, 454.1031, 476.688, 537.044, 1 and 2, to read as follows:

104.540. 1. All premium payments and deferred compensation provided for under sections

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

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 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 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 behalf to the proper person, from each of his 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 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 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 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 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 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 natural mother, a man presumed to be his father under [subdivision (1), (2), or (3) of] 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] 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 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 this section.

[5.] **4.** If an action under 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 sections 210.817 to 210.852. If he is a minor, he may be represented by a next friend appointed for him 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 as his 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 next friend are in conflict. The natural mother, each man presumed to be the father under 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, RSMo, shall apply, but no other provisions of sections 210.818 through 210.852, RSMo, 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 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 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.

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 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 unmarried minor children.

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 shall allege the marriage is irretrievably broken and shall set forth:

- (1) The residence of each party and the length of residence in this state;
- (2) The date of the marriage and the place at which it was registered;
- (3) The date on which the parties separated;

(4) The names, ages, and addresses of any living children of the marriage and whether the wife is pregnant;

(5) Any arrangements as to the custody and support of the children and the maintenance of a spouse; and

- (6) 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]. **The mere fact that one parent has actual custody of the minor children at the time of filing shall not create a preference for the court in its adjudication of custody, visitation and child support.**

4. A party shall submit a proposed parenting plan at the time of filing of a motion to modify or a petition involving custody or visitation issues. A party shall submit a proposed parenting plan when filing the answer in such cases or within thirty days after service of a motion to modify. The proposed parenting plan shall set forth

the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the residential time for each child with each party including:

- (a) Major holidays stating which holidays a party has each year;**
- (b) School holidays for school age children;**
- (c) The child's birthday, Mother's Day and Father's Day;**
- (d) Weekday and weekend schedules and for school age children how the winter, spring, summer and other vacations from school will be spent;**
- (e) The times and places for transfer of the child between the parties in connection with the residential schedule;**
- (f) A plan for sharing transportation duties associated with the residential schedule;**
- (g) Appropriate times for telephone access;**
- (h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;**
- (i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;**

(2) A specific written plan detailing how the decision-making rights and responsibilities will be shared between the parties including the following:

- (a) Educational decisions and methods of communicating information from the school to both parties;**
- (b) Medical, dental and health care 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 those activities involve time during which each party 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 party suggests no shared decision-making, a statement of the reasons for such a request;**

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

- (a) **The suggested amount of child support to be paid by each party;**
- (b) **The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;**
- (c) **The payment of educational expenses, if any;**
- (d) **The payment of extraordinary expenses of the child, if any;**
- (e) **Child care expenses, if any;**
- (f) **Transportation expenses, if any.**

5. If the proposed temporary parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order with a specific residential schedule and specific decision-making authority as well as temporary orders for child support and health insurance for the child which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

[4.] **6.** 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.

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

452.340. 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] **the support of the child**, including an award 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 child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs, **including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements;** [and]
- (5) The child's physical 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 shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has

voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the division of child support enforcement may determine the amount of the abatement under 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 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 has relinquished the child from parental control by express or implied consent; or

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

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

5. If when a child reaches age eighteen, **[he] the child** is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend **and** progresses toward completion of said program, until the child completes such 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 graduation equivalence degree **program** and so long as the child enrolls for and completes at least twelve hours of credit each **[term] semester, not including the summer semester,** at an institution of vocational or higher education and achieves grades sufficient to re-enroll at such institution, the parental 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 support, **at the beginning of each semester** the child shall submit to each parent a transcript **or similar 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, the grades and credits received for each such course, and the courses which the child is enrolled in for the upcoming term 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 this subsection. If the child is enrolled in such an institution, the child or obligated parent may

petition the court to amend the order to direct the obligated 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, 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, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.**

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 child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and 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] **that** frequent, continuing and meaningful contact with both parents **after the parents have separated or dissolved their marriage is in the best interest of the child** 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 **past or** future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide 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 thereof. The court [may] **shall** also award, **if requested and for good cause shown**, 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 of child support shall be made in any judicial or administrative proceeding. Said 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 of joint physical custody results in the child or children spending substantially equal time with both parents. Not later than July 1, 1998, the 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 amounts.

9. [Beginning October 13, 1989,] There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award 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. 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 shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Under this or any other chapter, when a court determines the amount owed by a parent for support provided to [his] a child by another person 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 subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established under 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 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, 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.

452.355. 1. **Unless otherwise indicated**, the court from time to time after considering all relevant factors including the financial resources of both parties, **the merits of the case and the actions of the parties during the pendency of the action**, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under sections 452.300 to 452.415 and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his 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, if the court finds that the obligor has failed[, without good cause,] to comply with such order or decree to pay the child support, the court shall order the obligor to pay a reasonable amount for the cost of the suit to the obligee, including sums for legal services. The court may order **for good cause shown** that the amount be paid directly to the attorney, who may enforce the order in his name.

3. For purposes of this section, an "obligor" is a person owing a duty of support and an "obligee" is a person to whom a duty of support is owed.

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

452.373. 1. In cases involving custody or visitation issues, the court may, except for good cause shown or as provided in subsection 2 of this section, order the parties to the action to participate in an alternate dispute resolution program pursuant to supreme court rule to resolve any issues in dispute or may set a hearing in the matter. As used in this section, "good cause" includes, but is not limited to, noncontested custody or visitation cases, or a prior finding of domestic violence as determined by a court with jurisdiction after all parties have received notice and an opportunity to be heard, but does not mean the absence of qualified mediators.

2. Any alternate dispute resolution program ordered by the court pursuant to subsection 1 of this section shall:

(1) Be paid for by the parties in a proportion to be determined by the court, the cost of which shall be reasonable and customary for the circuit in which the program is ordered;

(2) Not be binding on the parties;

(3) Not be ordered or used for contempt proceedings, for enforcement of existing custody or visitation orders which are unambiguous or which designate specific times

or specific periods, or for a motion for a family access order pursuant to section 452.400; and

(4) Not be ordered or utilized for child support issues.

3. Within sixty days after the effective date of this section, the Missouri supreme court shall publish a rule allowing, but not requiring, each circuit to establish an alternate dispute resolution program for contested custody and visitation proceedings within six months of the adoption of the supreme court rule.

452.375. 1. As used in this [section] **chapter**, unless the context clearly indicates otherwise:

(1) "Custody", depending on the context, means joint legal custody, legal custody, joint physical custody or physical custody or any combination thereof;

[(1)] **(2)** "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)] **(3)** "Joint physical custody" means an order awarding each of the parents significant, **but not necessarily equal**, periods of time during which a child resides with or is under the care and supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent [and], continuing **and meaningful** contact with both parents.

2. The court shall determine 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] **and the proposed parenting plans submitted by both parties;**

[(3)] **(2)** 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)] **(3)** The child's adjustment to [his] **the child's** home, school, and community;

[(5)] **(4)** 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)] **(5)** 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)] **(6)** The intention of either parent to relocate [his] **the principal residence of the child** [outside the state]; [and]

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

(8) The wishes of a child as to the child's custodian.

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] **that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child**, 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, **continuing** 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] **custody awards in the order of preference listed in subdivisions (1) to (5) of this subsection, except where there are no custody issues in dispute. The burden of coming forward with evidence that a particular custodial arrangement is not in the best interest of the child shall be upon the parent opposing such an award. In the event the court finds that a preferred custodial arrangement is not in the child's best interest 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 child's best interest and shall specify the custodial arrangement which the court finds is in the child's best interest. The order of preference shall be:**

(1) Joint **physical and joint legal** custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint **physical and joint legal** custody award. **The residence of one of the parents shall be designated as the mailing address of the child;**

(2) **Joint physical custody with one party granted sole legal custody. The residence of one of the parents shall be designated as the mailing address of the child;**

(3) Joint legal custody with one party granted sole physical custody;

(4) Sole custody to either parent; or

[(3)] (5) Third party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded 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 custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under 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. 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 **legal** custody, [a court may provide that parents] **unless the court specifically declares otherwise, the legal custodian** shall [confer with one another in the exercise of decision-making rights, responsibilities and authority] **discuss with the other parent any significant decision affecting the health, education or welfare of the child.** Upon a finding by the court that either parent has refused to exchange information with one another, which shall include but not be limited to 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 attorney's fees and court costs.

7. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

8. Any decree providing for joint custody 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. In all cases, the joint custody plan approved and ordered by the court shall be in the court's discretion **and shall be in the best interest of the child.**

9. Unless [a noncustodial] **a parent has been denied custody rights under section 452.375 or visitation rights under section 452.400, any judgment or decree of dissolution or other applicable court order shall, after August 28, 1998, specifically allow both parents** 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] **the parent without custody** has been granted restricted or supervised visitation because the court has found that the [custodial] parent **with**

custody or the child has been the victim of domestic violence, as defined in section 455.200, RSMo, by the [noncustodial] parent **without custody**, the court may order that the reports and records made available pursuant to this subsection not include the address of the [custodial] parent **with custody** or the child.

10. 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, attorney's fees and court costs associated with obtaining the requested information.

11. An award of joint custody does not preclude an award of 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.

12. If the court finds that domestic violence has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence from any further harm.

452.377. **1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child for a period of ninety days or more, but does not include a temporary absence from the principal residence.**

2. The residence of the child or any party entitled to custody or visitation of the child shall not be changed without first providing written notice by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

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

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

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of a child, if applicable; and

(5) A proposal for a revised schedule of custody or visitation with the child, if applicable.

3. A [person] party entitled to the custody of a child shall not [change] relocate the principal residence of the child to another state, or remove the child from this state for a period of time exceeding ninety days, or relocate the principal residence of the child more than fifty miles from the current principal residence of the child except upon order of the court or with the written consent of the parties with custody or visitation rights. Where [the noncustodial person] a party has been given custody or visitation rights by the custody decree, such court permission may be granted only after notice to the [person] party having custody or visitation rights and after opportunity for hearing.

4. A party required to give notice of a proposed relocation pursuant to subsection 2 of 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 person, 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 of a child as:

(1) A factor in determining whether custody and visitation 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 party seeking to relocate the child to pay reasonable expenses and attorneys fees incurred by the party objecting to the relocation.

7. If the parties agree to a revised schedule of custody or visitation, they may submit the terms of such agreement to the court with a written affidavit signed by the parties assenting to the terms of the agreement and the court may order the revised schedule without a hearing.

8. The party seeking to relocate shall have the burden of proving that the proposed relocation is made in good faith and is in the best interest of the child.

9. If relocation is permitted:

(1) The court shall order contact with the nonrelocating party including custody or visitation and telephone access sufficient to assure that the child has frequent, continuing and meaningful contact with the nonrelocating party unless the child's best interest warrant otherwise; and

(2) 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.

10. After August 28, 1998, every court order establishing or modifying custody or visitation shall include the following language: "Absent exigent circumstances as determined by a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by certified mail, return receipt requested, and at least sixty days prior to the proposed relocation, each party to this action of any proposed relocation of the principal residence of the child, including the following information:

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

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

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of the child; and

(5) A proposal for a revised schedule of custody or visitation with the child.

Your obligation to provide this information to each party continues as long as you or any other party by virtue of this order is entitled to custody of a child covered by this order. Your failure to obey the order of this court regarding the proposed relocation may result in further litigation to enforce such order, including contempt of court. In addition, your failure to notify a party of a relocation of the child may be considered in a proceeding to modify custody or visitation with the child. Reasonable costs and attorney fees shall be assessed against you if you fail to give the required notice."

11. Violation of the provisions of this section or 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. 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.

12. Any party who objects in good faith to the relocation of a child's principle residence shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate.

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.] **The court shall enter an order**

specifically detailing the visitation rights of the parent without physical custody rights. 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 **or an offense committed in another state, when the child is the victim, that would be a felony violation of chapter 566, RSMo, or section 568.020, RSMo, if committed in Missouri.** 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, **if requested by a party,** 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. The court shall mandate compliance with its order by both [the custodial parent] **parents** and the child. [In the event of noncompliance,] **If a parent has been granted specific or unambiguous visitation or custody rights, and such specific or unambiguous rights are denied or interfered with by the other parent, without good cause,** the [noncustodial] parent **having specific or unambiguous visitation or custody rights** may file a motion for contempt[.] **or a motion for a family access order.**

4. By January 1, 1999, the state courts administrator shall develop a simplified form and instructions for use by persons filing pro se motions for family access orders pursuant to this section. The cost of filing the motion shall be the standard court costs plus a fee not to exceed twenty-five dollars. Motions for family access orders pursuant to this section shall be summarily heard, except as otherwise provided by this section, in the manner provided by sections 517.021 to 517.151, RSMo, by judges of the circuit court or by any commissioner of the circuit court authorized to hear such motions for

family access orders. No continuance of a hearing relating to such a motion for a family access order shall be granted by the court except for extraordinary cause. Final disposition of the motion shall take place not more than forty-five days after service of such motion, except for good cause shown as determined by the court or by waiver of the parties. Final disposition shall not include appellate review.

5. Upon a finding by the court that its order for visitation **or custody** 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] **provide** 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 **denied visitation or custody** not less than the period of time denied, [together with] **and, if requested by a party and for good cause shown, a mandatory judgment in an amount not less than the reasonable expenses and court costs actually incurred by the [noncustodial] parent as a result of the denial of visitation or custody. Such order may include a provision that the sheriff or other law enforcement officer shall enforce the rights of either parent to custody or visitation, as the case may be, unless the court issues a subsequent order pursuant to chapters 210 or 211, RSMo, to limit or deny either parent's access to the child.**

[4.] 6. The **reasonable expenses, attorney's fees and court costs actually incurred as a result of a proceeding to enforce visitation or custody rights shall, if requested by a party and for good cause shown, be assessed against the parent who [unreasonably], without good cause, denies or interferes with visitation or custody.** 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. **The intentional denial or interference with visitation or custody of a child from the other parent, without good cause, shall constitute a change of circumstances which may justify a modification of custody.**

8. **For purposes of supreme court rule 51, motions filed pursuant to this section shall not be deemed to be an independent civil action if the judge or commissioner designated to rule on the motion is 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 **ordered by the court or** agreed by the parties in writing at the time of the custody decree, the **legal** 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 **without legal custody**, that in the absence of a specific limitation of the **legal** custodian's authority the child's physical health would be endangered or his emotional development impaired.

2. **The legal custodian shall not exercise legal custody in such a way as to significantly and detrimentally impact the other parent's visitation or custody rights.**

[2.] 3. 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 residence to another state, such change of residence of the parent shall be deemed a change of circumstances under section 452.410, allowing the court to modify a prior **visitation or** custody decree.

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 unreasonable.

2. Upon receipt of a notarized letter from the commanding officer of a noncustodial parent 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 child support in accordance with the guidelines and criteria set forth in **section 452.340 and applicable** supreme court [rule 88.01] **rules**. Such notification to the director shall constitute an application for services under 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 child support in accordance with the guidelines and criteria set forth in **section 452.340 and applicable** supreme court [rule 88.01] **rules**. Such notification to the director shall constitute an application for services under 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.

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, 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 to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to more than one disqualification of a guardian ad litem 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 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 subsection [2] 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 to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to more than one disqualification of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining 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.

452.600. The circuit courts [of the fifth, sixth, twenty-third, twenty-ninth, thirtieth, thirty-first and thirty-eighth judicial circuits], by local rule, may establish a program of educational sessions for parties to actions for dissolution of marriage or in postjudgment proceedings involving custody or support, concerning the effects of dissolution of marriage on minor children of the marriage. 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 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], **except for good cause**, order the parties, including the minor children, to attend educational sessions concerning the effects of **custody and the 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 parties have stipulated to the custody and visitation of the child, or a finding by a court with jurisdiction after all parties have received notice and an opportunity to be heard that the safety of a party or child may be endangered by attending the educational 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** of Title IV **of the Social Security Act**, [or] 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 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 **of the Social Security Act**, [or] 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 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 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 when [all parties to the support order file] **the custodial 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] **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 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 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.

454.490. 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 either the parent or the dependent child resides or 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] **the 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 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 under sections 454.850 to 454.997, but no other provisions of sections 210.817 through 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 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.

Section 1. The family access fee of up to twenty-five dollars established in section 452.400, RSMo, shall be charged and collected by every clerk of the court in this state. 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 deposited in the "Family Access Fund" which shall be established in each county for the purpose of defraying the costs associated with family access motions filed pursuant to section 452.400, RSMo. Any circuit which does not have a family court shall establish a "Family Access Fund" within their circuit to aid in the payment of services offered by that circuit's courts pursuant to section 452.400, RSMo.

Section 2. 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 non-compliance of such party shall rest with the division of child support enforcement, and shall verify such non-compliance upon request.

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