

SECOND REGULAR SESSION

[CORRECTED]

[PERFECTED]

SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE

SENATE BILLS NOS. 771 & 687

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIMS.

Offered April 23, 1998.

Senate Substitute adopted, April 23, 1998.

Taken up for Perfection April 23, 1998. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S3076.06P

AN ACT

To repeal sections 104.540, 210.720, 210.826, 210.830, 211.183, 211.464, 452.150, 452.310, 452.355, 452.377, 452.405, 452.411, 452.416, 452.600, 452.605, 453.160 and 454.432, RSMo 1994, and sections 192.016, 193.215, 210.109, 210.822, 211.444, 211.171, 211.447, 287.820, 452.340, 452.375, 452.400, 452.402, 452.423, 452.490, 453.010, 453.025, 453.030, 453.040, 453.060, 453.070, 453.075, 453.077, 453.080, 453.110, 453.170, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505, 476.688 and 568.175, RSMo Supp. 1997, relating to child custody and child support proceedings, and to enact in lieu thereof fifty-eight new sections relating to the same subject, with an emergency clause and penalty provisions.

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

Section A. Sections 104.540, 210.720, 210.826, 210.830, 211.183, 211.464, 452.150, 452.310, 452.355, 452.377, 452.405, 452.411, 452.416, 452.600, 452.605, 453.160 and 454.432, RSMo 1994, and sections 192.016, 193.215, 210.109, 210.822, 211.444, 211.171, 211.447, 287.820, 452.340, 452.375, 452.400, 452.402, 452.423, 452.490, 453.010, 453.025, 453.030, 453.040, 453.060, 453.070, 453.075, 453.077, 453.080, 453.110, 453.170, 454.390, 454.408, 454.413, 454.440, 454.455, 454.460, 454.490, 454.505, 476.688 and 568.175, RSMo Supp. 1997, are repealed and fifty-eight new sections enacted in lieu thereof, to be known as sections 104.540, 192.016, 193.215, 210.109, 210.720, 210.822, 210.826, 210.830, 210.844, 211.171, 211.183, 211.444, 211.447, 211.464, 287.820, 452.150, 452.310, 452.340, 452.355, 452.373, 452.375, 452.377, 452.400, 452.402, 452.405, 452.411, 452.416,

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

452.423, 452.490, 452.600, 452.605, 453.010, 453.025, 453.030, 453.040, 453.060, 453.070, 453.075, 453.077, 453.080, 453.110, 453.160, 453.170, 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, 568.175 and 1, to read as follows:

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

192.016. 1. The department of health shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. section 652(2)(7).

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. The department shall, upon request **and within two business days of such request**, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

7. The department of health shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

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.

210.720. 1. In the case of a child who has been placed in the custody of **[an] the division of family services in accordance with section 207.010 or another** authorized agency by a court or who has been placed in foster care by a court, every six months after the placement, the foster family, group home, agency, or child care institution with which the child is placed shall file with the court a written report on the status of the child~~], and]~~. The court shall review the report and shall hold a **[dispositional] permanency** hearing within **[eighteen] twelve** months of initial placement and annually thereafter. The **[dispositional] permanency** hearing shall be for the purpose of determining in accordance with the best interests of the child **a permanent plan for the placement of the child, including** whether or not the child should be continued in foster care or whether the child should be returned to a parent, guardian or relative, or whether or not proceedings should be instituted **by either the juvenile officer or the division** to terminate

parental rights and legally free such child for adoption.

2. In such [dispositional] **permanency** hearings the court shall consider all relevant factors including:

(1) The interaction and interrelationship of the child with his foster parents, his parents, his siblings, and any other person who may significantly affect the child's best interests;

(2) The child's adjustment to his foster home, school and community;

(3) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved;

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

3. The judge shall make written findings of fact and conclusions of law in any [final disposition] **order pertaining to the placement of the child.**

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.

211.171. 1. The procedure to be followed at the hearing shall be determined by the juvenile court judge **or family court judge** and may be as formal or informal as he considers desirable. He may take testimony and inquire into the habits, surroundings, conditions and tendencies of the child to enable the court to render such order or judgment as will best promote the welfare of the child and carry out the objectives of this chapter.

2. The hearing may, in the discretion of the court, proceed in the absence of the child and may be adjourned from time to time.

3. The current foster parents of a child, or any preadoptive parent or relative currently providing care for the child shall be provided with notice of, and an opportunity to be heard in any permanency or other review hearing to be held with respect to the child unless such notice and opportunity is waived by such foster or custodial parent. This subsection shall not be construed to establish that any such foster parent, preadoptive parent, or relative providing care for a child shall have the right to be made a party to the case solely on the basis of such notice and opportunity to be heard.

4. All cases of children shall be heard separately from the trial of cases against adults.

[4.] 5. Stenographic notes or an authorized recording of the hearing shall be required if the court so orders or if requested by any party interested in the proceeding.

[5.] 6. The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court [except in cases where the child is accused of conduct which, if committed by an adult, would be considered a class A or B felony; or for conduct which would be considered a class C felony, if the child has previously been formally adjudicated for the commission of two or more unrelated acts which would have been class A, B or C felonies, if committed by an adult].

[6.] 7. The practice and procedure customary in proceedings in equity shall govern all proceedings in the juvenile court **or family court**.

[7.] 8. The court shall allow the victim of any offense to submit a written statement to the court. The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement, unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries

or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child.

211.183. 1. In juvenile court **or family court** proceedings regarding the removal of a child from his home, the **court's** order [of disposition] shall include a determination of whether the division of family services has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. **In determining reasonable efforts to be made and in making such reasonable efforts the child's present and ongoing health and safety shall be the paramount consideration.**

3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.

4. The juvenile court **or family court** may authorize the removal of the child even if the preventive and reunification efforts of the division have not been reasonable, but further efforts could not permit the child to remain at home.

5. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court **or family court**, excluding commitments to the division of youth services, the court shall in its orders:

(1) State whether removal of the child is necessary to protect the child and the reasons therefor;

(2) Describe the services available to the family before removal of the child, including in-home services;

(3) Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;

(4) State why efforts made to provide family services described did not prevent removal of the child; and

(5) State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.

6. If continuation of reasonable efforts as described in this section is determined by the division to be inconsistent with establishing a permanent placement for the child, the division shall take such steps as are deemed necessary by the division,

including seeking modification of any court order, to modify the permanency plan for the child.

7. The division shall not be required to make reasonable efforts as defined in this section if:

(1) The parent has committed a severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family, including an act of incest, or such acts were committed by another under circumstances where the parent knew or should have known that such acts were being committed; or

(2) The parent has repeatedly or continuously failed, although physically or financially able to do so, to provide the child with adequate food, clothing, shelter or education as defined by law or other care and control necessary for his physical, mental or emotional health and development;

(3) The parent has:

(a) Committed murder;

(b) Committed voluntary manslaughter;

(c) Aided or abetted, attempted, conspired or solicited to commit such murder or voluntary manslaughter;

(d) Committed a felony assault; or

(4) The parent's parental rights to a sibling have been involuntarily terminated.

8. If the court determines that reasonable efforts as defined in this section are not required to be made by the division, the court shall hold a permanency hearing within thirty days after the court has made such determination. The division shall complete whatever steps are necessary to finalize the permanent placement of the child within that thirty day period.

9. The division may concurrently engage in reasonable efforts as defined in this section while engaging in such other measures as are deemed appropriate by the division to establish a permanent placement for the child always keeping the child's best interest in mind.

211.444. 1. The juvenile court **or family court** may, upon petition of the juvenile officer, or the court before which a petition for adoption has been filed **[under] pursuant to** the provisions of chapter 453, RSMo, terminate the rights of a parent to a child if the court finds that such termination is in the best interests of the child and the parent has consented in writing to the termination of his **or her** parental rights.

2. A foster parent, prospective adoptive parent or legal custodian of a child may request the department to file a petition with the court for transfer of custody pursuant to chapter 453, RSMo, and termination of parental rights pursuant to this section or section 211.447. Such petition may be filed either to commence an adoption proceeding or in an adoption proceeding.

3. The written consent required by subsection 1 of this section may be executed before or after the institution of the proceedings and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving the written consent shall be witnessed by at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective parents. The notary public or witnesses shall verify the identity of the party signing the consent.

[3.] 4. The written consent required by subsection 1 of this section shall be valid and effective only after the child is at least forty-eight hours old and if it complies with the other requirements of section 453.030, RSMo.

211.447. 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry [and may file a petition to terminate parental rights.] if it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed. Thereupon, the informant may bring the matter directly to the attention of the judge of the juvenile court **or family court** by presenting the information in writing, and if it appears to the judge that the information could justify the filing of a petition, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry or filing a petition.

2. The juvenile court, **family court or the court before which a petition for adoption has been filed pursuant to the provisions of chapter 453, RSMo**, may terminate the rights of a parent to a child upon a petition filed by the juvenile officer, **the division** or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interests of the child and when it appears by clear, cogent and convincing evidence that one or more of the following grounds for termination exist:

(1) The child has been abandoned. The court shall find that the child has been abandoned if, for a period of six months or longer for a child over one year of age or a period of sixty days or longer for a child under one year of age at the time of the filing of the petition:

(a) The parent has left the child under such circumstances that the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) The parent has, without good cause, left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(2) The child has been abused or neglected. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following

conditions or acts of the parent:

(a) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(b) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control of the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control;

(c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child or any child in the family by the parent, including an act of incest, or by another under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child in the family; or

(d) Repeated or continuous failure by the parent, although physically or financially able, to provide the child with adequate food, clothing, shelter, or education as defined by law, or other care and control necessary for the child's physical, mental, or emotional health and development;

(3) The child has been under the jurisdiction of the juvenile court **or family court** for a period of one year, and the court finds that the conditions which led to the assumption of jurisdiction still persist, or conditions of a potentially harmful nature continue to exist, that there is little likelihood that those conditions will be remedied at an early date so that the child can be returned to the parent in the near future, or the continuation of the parent-child relationship greatly diminishes the child's prospects for early integration into a stable and permanent home. In determining whether to terminate parental rights under this subdivision, the court shall consider and make findings on the following:

(a) The terms of a social service plan entered into by the parent and the division and the extent to which the parties have made progress in complying with those terms;

(b) The success or failure of the efforts of the juvenile officer, the division or other agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a proper home for the child;

(c) A mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(d) Chemical dependency which prevents the parent from consistently providing the necessary care, custody and control over the child and which cannot be treated so as to enable the parent to consistently provide such care, custody and control; or

(4) The parent has been found guilty or pled guilty to a felony violation of chapter 566, RSMo, when the child or any child in the family was a victim, or a violation of section 568.020, RSMo, when the child or any child in the family was a victim. As used in this subdivision, a child means any person who was under eighteen years of age at the time of the crime and who resided

with such parent or was related within the third degree of consanguinity or affinity to such parent;
or

(5) The child was conceived and born as a result of an act of forcible rape. When the biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a plea or conviction shall be conclusive evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to, abuses as defined in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated under subdivisions (1), (2), (3) or (4) of this [section] **subsection** or similar laws of other states.

3. Except as provided in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by either the juvenile officer or the division when information available to the juvenile officer or the division establishes that:

(1) The child has been in foster care for at least fifteen of the most recent twenty-two months;

(2) For a child who is under one year of age, the parent has for a period of sixty days or longer:

(a) Left the child under circumstances in which the identity of the child was unknown and could not be ascertained, despite diligent searching, and the parent has not come forward to claim the child; or

(b) Without good cause left the child without any provision for parental support and without making arrangements to visit or communicate with the child, although able to do so;

(3) The parent has:

(a) Committed murder;

(b) Committed voluntary manslaughter;

(c) Aided or abetted, attempted, conspired or solicited to commit a murder or a voluntary manslaughter; or

(d) Committed a felony assault.

4. The juvenile officer or the division is not required to file a petition to terminate the parental rights of the child's parents pursuant to subsection 2 of this

section if:

- (1) The child is being cared for by a relative; or**
- (2) There exists a compelling reason for determining that filing such a petition would not be in the best interests of the child as documented in the permanency plan, which shall be made available for court review; or**
- (3) The family of the child has not been provided such services as provided for in section 211.183.**

5. When considering whether to terminate the parent-child relationship pursuant to subdivision (1), (2), (3), (4) or (5) of subsection 2 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

- (1) The emotional ties to the birth parent;
- (2) The extent to which the parent has maintained regular visitation or other contact with the child;
- (3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;
- (4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;
- (5) The parent's disinterest in or lack of commitment to the child;
- (6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;
- (7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

[4.] **6.** The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

[5.] **7.** In actions for adoption under chapter 453, RSMo, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted under subsection 2 of this section.

211.464. **1.** Where a child has been placed with a foster parent, with relatives or with other persons who are able and willing to permanently integrate the child into the family by adoption, [if the court finds that it is in the best interests of the child,] the court [may] **shall** provide the opportunity for such foster parent, relative or other person to present evidence for the consideration of the court.

2. Current foster parents who are not seeking to adopt the child shall be given an opportunity to testify at all hearings regarding the child. Other legal custodians

who are not seeking to adopt the child shall be given an opportunity to testify at all hearings regarding the child. Upon the filing of a petition concerning a minor child who is in the care of foster parents or other legal custodians, the court shall give notice to such foster parents or legal custodians of the filing, any future hearings held on such petition and their opportunity to testify at any subsequent hearings held in relation to such petition, unless such notice and opportunity is waived by such foster or custodial parent.

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.

452.402. 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have been denied to them;

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation rights; [or]

(3) A grandparent is unreasonably denied **by the custodial parent** visitation with the child for a period exceeding ninety days; **or**

(4) The child is adopted by a stepparent, another grandparent or other blood relative.

2. The court shall determine if the visitation by the grandparent would be in the child's

best interest or if it would endanger the child's physical health or impair [his] **the child's** emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if he were a party. The court shall allow a reasonable fee to the guardian ad litem to be taxed as costs in the proceedings.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to seek or maintain visitation rights [under] **pursuant to** this section may terminate upon the adoption of the child [except where the child is adopted by a stepparent, another grandparent or other blood relative].

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

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.**

453.010. 1. [Unless the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provisions of chapter 211, RSMo,] Any person desiring to adopt another person as his **or her** child shall petition the juvenile division of the circuit court **or the family court** of the county in which:

- (1) The person seeking to adopt resides;
- (2) The child sought to be adopted was born;
- (3) The child is located at the time of the filing of the petition; or
- (4) Either birth person resides.

2. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to adopt such person as his **or her** child shall petition [the juvenile division of the] **such** circuit court which has jurisdiction over the child for permission to adopt such person as his **or her** child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court **or the family court** which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.

3. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.

4. Upon receipt of a properly filed petition, a court, as defined in section 453.010, shall hear said petition in a timely fashion. **A court or licensed child placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile.**

5. **A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in**

subdivision (2), (3) or (4) of subsection 1 of this section.

453.025. 1. The court shall, in all cases where the person sought to be adopted is under eighteen years of age, appoint a guardian ad litem, if not previously appointed pursuant to section 210.160, RSMo, to represent the person sought to be adopted.

2. When the parent is a minor or incompetent, the court shall appoint a guardian ad litem to represent such parent.

3. The guardian ad litem shall:

(1) Be the legal advocate for the best interest of the party he is appointed to represent with the power and authority to cross-examine, subpoena witnesses, and offer testimony;

(2) Initiate an appeal of any disposition that he determines to be adverse to the interests of the party he represents; and

(3) Ascertain the child's wishes, feelings and attitudes regarding the adoption by interviewing persons with knowledge of the child, and if appropriate, to meet with the child.

[4. Where an adoption petition is filed by an adoptive parent which alleges grounds as provided in section 211.447, RSMo, as permitted under section 453.040, any birth parent who cannot afford an attorney may provide the court with proof of income and request an attorney be appointed by the court. The court may order the costs of the attorney fees incurred pursuant to this subsection to be paid by the prospective adoptive parent.]

453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; **and**

(2) [A] **Any** man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), (3) or (5) of subsection 1 of section 210.822, RSMo; **or**

(b) **Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or**

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth[;

(c)], **and** has filed an action to establish his paternity in a court of competent jurisdiction

no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consent has been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents **or any attorney representing a party to the adoption proceeding.** The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consent shall be [presented to the court for review and approval as soon as practicable] **reviewed and if found to be in compliance with this section, approved by the court within three business days of such consent being presented to the court. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court.**

7. [The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. The] **A** consent form shall be developed through rules and regulations promulgated by the department of social services. [No] **Any** rule or portion of a rule promulgated under the authority of this section shall become effective [unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.], **only as provided pursuant to chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after the effective date of this act. All rulemaking authority delegated prior to the effective date of this act is of no force and affect and repealed as of the effective date of this act, however nothing in this act shall be interpreted to repeal or effect the validity of any rule adopted and promulgated prior to the effective date of this act. If the provisions of section 536.028,**

RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to the effective date of this act. If written consent is obtained after the effective date of this section but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 8 of this section, such written consent shall be deemed valid.

[9.] **8.** However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

[10.] **9.** The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem[,] **or legal counsel** at the time of the execution thereof.

[11.] **10.** Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

[12.] **11. The birth parent shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition,** the court may appoint an attorney to represent a birth parent if:

(1) The birth parent requests representation; [and]

(2) The court finds that hiring an attorney to represent such birth parent would cause [an undue] **a financial hardship for the birth parent; and**

(3) The birth parent is not already represented by counsel.

[13.] **12.** The court [may] **shall** order the costs of the attorney fees incurred pursuant to [the provisions of] subsection [12] **11** of this section to be paid by the prospective adoptive parents or the child placing agency.

453.040. The consent to the adoption of a child is not required of:

(1) A parent whose rights with reference to the child have been terminated pursuant to law, **including section 211.444, RSMo, or section 211.447, RSMo, or other similar laws in**

other states;

(2) A parent of a child who has [waived the necessity of his or her consent] **legally consented** to a future adoption of the child;

(3) A parent whose identity is unknown and cannot be ascertained at the time of the filing of the petition;

(4) A man who has not been established to be the father and who is not presumed by law to be the father, and who, after the conception of the child, executes a verified statement denying paternity and disclaiming any interest in the child and acknowledging that this statement is irrevocable when executed and follows the consent as set forth in section 453.030;

(5) A parent or other person who has not executed a consent and who, after proper service of process, fails to file an answer or make an appearance in a proceeding for adoption or for termination of parental rights at the time such cause is heard;

(6) A parent who has a mental condition which is shown by competent evidence either to be permanent or such that there is no reasonable likelihood that the condition can be reversed and which renders the parent unable to knowingly provide the child the necessary care, custody and control;

(7) A parent who has for a period of at least six months, for a child one year of age or older, or at least sixty days, for a child under one year of age, immediately prior to the filing of the petition for adoption, willfully abandoned the child or, for a period of at least six months immediately prior to the filing of the petition for adoption, willfully, substantially and continuously neglected to provide him with necessary care and protection[.];

(8) A parent whose rights to the child may be terminated for any of the grounds set forth in section 211.447, RSMo, and whose rights have been terminated after hearing and proof of such grounds as required by sections 211.442 to 211.487, RSMo. Such petition for termination may be filed as a count in an adoption petition.

453.060. 1. A writ of summons and a copy of the petition shall be served on:

(1) Any person, agency, organization or institution whose consent to the adoption is required by law unless such consent is filed in court;

(2) Any person whose consent to the adoption, according to the allegation of the petition for adoption, is not required for the reasons set forth in subdivision [(5),] (6) or (7) of section 453.040;

(3) Any person, agency, organization or institution, within or without the state, having custody of the child sought to be adopted under a decree of a court of competent jurisdiction even though its consent to the adoption is not required by law;

(4) The legally appointed guardian of the child;

(5) Any person adjudicated by a court of this state or another state, a territory of the United States or another country to be the father of the child;

(6) Any person who has timely filed a notice of intent to claim paternity of the child pursuant to section 192.016, RSMo, or an acknowledgment of paternity pursuant to section 193.087, RSMo.

2. Except as provided in this section and section 453.014, it is not necessary to serve any person, agency, organization or institution whose consent is not required [under] **pursuant to** the provisions of sections 453.030 to 453.050.

3. If service of summons cannot be made in the manner prescribed in section 506.150, RSMo, then the service shall be made by mail or publication as provided in section 506.160, RSMo.

4. Upon service, whether personal or constructive, the court may act upon the petition without the consent of any party, except that of a parent whose consent is required by sections 453.030 to 453.050, and the judgment is binding on all parties so served. Any such party has the right to appeal from the judgment in the manner and form provided by the civil code of Missouri.

5. In all cases where the putative father is unknown, service shall be made by publication on "John Doe" as provided in section 506.160, RSMo.

6. Upon request, the court may order that the writ of summons and copy of the petition required by this section may be served without the names and addresses of the petitioners when the court deems it to be in the best interests of the child.

453.070. 1. Except as provided in subsection [6] **5** of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court **or family court** having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate post-placement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, **a family court officer**, a licensed child placement agency, a social worker licensed pursuant to chapter 337, RSMo, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. No rule or portion of a rule promulgated under the

authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court [at least ten days] prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court **or family court** may waive the investigation and report and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of twelve months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

453.075. 1. The court shall require the petitioner in any proceeding for adoption to file at the time of filing the petition for permission to adopt, a signed and verified full accounting of any money, anything of value or other consideration paid or transferred by or on behalf of the petitioner in connection with the placement or adoption. The accounting shall show all payments or transfers made or to be made or consideration given or promised by or on behalf of the petitioner in connection with the placement or adoption, including:

(1) Hospital, medical and physician expenses incurred by the mother or a child in connection with the birth and any illness of the newborn child;

(2) Counseling services for a parent or child for a reasonable time before and after the child's placement for adoption;

(3) Expenses incurred in obtaining a preplacement assessment and an assessment during the proceeding for adoption;

(4) Reasonable legal expenses **of the birth parents**, court costs and travel or other administrative expenses connected with an adoption; [and]

(5) **Reasonable living expenses, including but not limited to, food, shelter, utilities, transportation or clothing expenses which are within the norms of the community in which the birth mother resides; and**

(6) Any other services **or items** the court finds [is] **are** reasonably necessary.

2. The court may decline to issue a decree of adoption and, in the event one of the petitioners is not a biological or adoptive parent of the child, may order the transfer of lawful custody from the petitioners to a licensed child placement agency if, after a hearing, it determines:

(1) That any of the payments, transfers or consideration were unreasonable; or

(2) That any of the payments, transfers or consideration were other than those permitted under section 568.175, RSMo; or

(3) That the petitioner has failed to report all of the payments, transfers or consideration given by or on behalf of the petitioner in connection with the placement or adoption.

453.077. 1. When a child has been placed with the petitioner for the required six month placement period, the person conducting the **pre-placement** assessment of the adoption **or other persons authorized to conduct assessments pursuant to section 453.070** shall provide the court with a post-placement assessment. The specific content of which shall be determined by rule by the department of social services, division of family services. The post-placement assessment shall include an update of the preplacement assessment which was submitted to the court pursuant to section 453.070, and a report on the emotional, physical and psychological status of the child.

2. No rule or portion of a rule promulgated [under] **pursuant to** the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

453.080. 1. The court shall conduct a hearing to determine whether the adoption shall be finalized. During such hearing, the court shall ascertain whether:

(1) The allegations of the petition are true;

(2) The person sought to be adopted, if a child, has been in the lawful and actual custody of the petitioner for a period of at least six months prior to entry of the adoption decree. Lawful and actual custody shall include a transfer of custody pursuant to the laws of this state, another state, a territory of the United States, or another [county] **country**;

(3) The court has received and reviewed a post-placement assessment on the monthly contacts with the adoptive family **pursuant to section 453.077, except for good cause shown in the case of a child adopted from a foreign country**;

(4) The court has received and reviewed an updated financial affidavit;

(5) The court has received the recommendations of the guardian ad litem and has received and reviewed the recommendations of the person placing the child, the person making the assessment and the person making the post-placement assessment;

(6) There is compliance with the uniform child custody jurisdiction act, sections 452.440 to 452.550, RSMo;

(7) There is compliance with the Indian Child Welfare Act, if applicable;

(8) There is compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo; and

(9) It is fit and proper that such adoption should be made.

2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of custody has occurred pursuant to section 453.110, the court may authorize the filing for finalization in another state if the adoptive parents are domiciled in that state.

3. If the court determines the adoption should be finalized, a decree shall be issued setting forth the facts and ordering that from the date of the decree the adoptee shall be for all legal intents and purposes the child of the petitioner or petitioners. The court may decree that the name of the person sought to be adopted be changed, according to the prayer of the petition.

4. [The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.] Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents. **The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.**

453.110. 1. [No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the division of family services within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child in a family home for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child placing agency licensed by this state as part of a preadoption placement.] **Any birth parent who is intending to place a child for adoption may, without an order of the court, place such child with a licensed child placement agency for placement in foster care, or pursuant to section 475.024, RSMo, with any other party who the birth parent deems appropriate for up to one year, except such child shall not be placed with a prospective adoptive parent without a court order.**

2. Any birth parent placing a child with any party pursuant to this section shall have the right to terminate such placement with such party at any time prior to signing a consent pursuant to section 453.030, or a court order terminating parental rights, authorizing consent to adoption or transferring custody of the adoptee, whichever first occurs.

[6.] **3. Any person may file a petition for the transfer of custody for the purpose of adoption.** After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody **to the adoptive parents or a licensed child-placing agency within three business days of the filing of such petition** if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation **to transfer custody** has been made **or requested but not received within three business days after the filing of a petition for transfer or custody** by the guardian ad litem;

(3) [A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed] **The evidence and pleadings establish grounds for adoption pursuant to the provisions of section 453.030 or that parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo;**

(4) The financial affidavit has been filed as required [under] **pursuant to the provisions of section 453.075;**

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) **A determination of the applicability of and** compliance with the Indian Child Welfare Act[, if applicable]; and

(7) **A determination of the applicability of and** compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo.

[7.] **4.** A hearing on the transfer of custody for the purpose of adoption is not required if:

- (1) The conditions set forth in subsection [6] 3 of this section are met;
- (2) The parties agree and the court grants leave; and
- (3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.

5. In the event that the court does not enter an order of transfer of custody pursuant to this section, the court shall make specific findings in a written order outlining its reasons for denying the transfer of custody.

453.160. **1.** After the expiration of one year from the date this chapter shall become effective, the validity of any decree of adoption [under] **pursuant to** any prior law shall not be subject to attack in any proceedings, collateral or direct, by reason of any irregularity in proceedings had pursuant to such prior law.

2. Any consent required for an adoption may only be revoked within one year of the date of such consent for fraud or duress.

453.170. **1.** When an adoption occurs pursuant to the laws of other states of the United States, Missouri shall, from the date of adoption hold the adopted person to be for every purpose the lawful child of its parent or parents by adoption as fully as though born to them in lawful wedlock, and such adoption shall have the same force and effect as adoption [under] **pursuant to** the provisions of this chapter, including all inheritance rights.

2. When an adoption occurs in a foreign country and is recognized as a valid adoption by the United States Department of Justice and the United States Department of Immigration and [Natural] **Naturalization** Services, this state shall recognize the adoption. The department of health, upon receipt of proof of adoption as required in subsection 7 of section 193.125, RSMo, shall issue a birth certificate for the adopted child upon request on forms prescribed and furnished by the state registrar pursuant to section 193.125, RSMo.

3. The adoptive parent or parents may petition the court pursuant to this section to request a change of name. The petition shall include a certified copy of the decree of adoption issued by the foreign country and documentation from the United States Department of Justice and the United States Department of Immigration and [Natural] **Naturalization** Services which shows the child lawfully entered the United States. The court shall recognize and give effect to the decree of the foreign country and grant a decree of recognition of the adoption and shall change the name of the adopted child to the name given by the adoptive parent, if such a request has been made.

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.

568.175. 1. A person, partnership, corporation, agency, association, institution, society or other organization commits the crime of trafficking in children if he or it offers, gives, receives or solicits any money, consideration or other thing of value for the delivery or offer of delivery of a child to another person, partnership, corporation, agency, association, institution, society or other organization for purposes of adoption, or for the execution of a consent to adopt or waiver of consent to future adoption or a consent to termination of parental rights.

2. A crime is not committed under this section if the money, consideration or thing of value [or conduct is permitted under chapter 453, RSMo, relating to adoption.] **is consistent with the provisions in chapter 453, RSMo, and is for:**

- (1) Fees to or adoption subsidy payments by a licensed child-placing agency;**
- (2) The actual costs of hospital, physician or other medical expenses incurred in connection with the prenatal care, birth and postnatal care of the minor child to be adopted;**
- (3) Court costs or fees for legal services rendered to the adoptive parents in connection with the placement or adoption of the minor;**
- (4) The costs of foster care rendered by or through a licensed child-placing agency; or**
- (5) Cancellation of child support arrearages when the adopting party is a stepparent of the child being placed for adoption.**

3. The crime of trafficking in children is a class C felony.

Section 1. No garnishment, withholding, or other financial legal proceeding under chapter 454, RSMo, to enforce a support order as defined in section 454.455, RSMo, shall be levied or maintained by the division of child support enforcement against a party who alleges that no current or unpaid child support is due if after review of the allegations and evidence the division determines that no current or unpaid child support is due. The enforcement action may continue pending a review by the division, and the division may only levy an enforcement action if current or unpaid support should later become due and owing. The division shall advise a party to a support obligation being enforced by the division of the amount currently due

under the support order and how that amount was calculated upon request.

Section B. Because immediate action is necessary to comply with changes in federal law, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect on July 1, 1998, or upon its passage and approval, whichever later occurs.

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