

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 1364

92ND GENERAL ASSEMBLY

4057L.03T

2004

AN ACT

To repeal section 452.310, RSMo, and to enact in lieu thereof one new section relating to parenting plans.

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

Section A. Section 452.310, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.310, to read as follows:

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

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

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

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

(3) The date on which the parties separated;

(4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;

(5) Whether the wife is pregnant;

(6) The Social Security number of the petitioner, respondent and each child;

(7) Any arrangements as to the custody and support of the children and the maintenance of each party; and

21 (8) The relief sought.

22 3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal
23 separation, each child shall immediately be subject to the jurisdiction of the court in which the
24 proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the
25 child is pending in juvenile court. Until permitted by order of the court, neither parent shall
26 remove any child from the jurisdiction of the court or from any parent with whom the child has
27 primarily resided for the sixty days immediately preceding the filing of a petition for dissolution
28 of marriage or legal separation.

29 4. The mere fact that one parent has actual possession of the child at the time of filing
30 shall not create a preference in favor of such parent in any judicial determination regarding
31 custody of the child.

32 5. The respondent shall be served in the manner provided by the rules of the supreme
33 court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a
34 verified answer within thirty days of the date of service which shall not only admit or deny the
35 allegations of the petition, but shall also set forth:

36 (1) The Social Security number of the petitioner, respondent and each child;

37 (2) Any arrangements as to the custody and support of the child and the maintenance of
38 each party; and

39 (3) The relief sought.

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

42 7. The petitioner and respondent shall submit a proposed parenting plan, either
43 individually or jointly, within thirty days after service of process or the filing of the entry of
44 appearance, whichever event first occurs of a motion to modify or a petition involving custody
45 or visitation issues. The proposed parenting plan shall set forth the arrangements that the party
46 believes to be in the best interest of the minor children and shall include but not be limited to:

47 (1) A specific written schedule detailing the custody, visitation and residential time for
48 each child with each party including:

49 (a) Major holidays stating which holidays a party has each year;

50 (b) School holidays for school-age children;

51 (c) The child's birthday, Mother's Day and Father's Day;

52 (d) Weekday and weekend schedules and for school-age children how the winter, spring,
53 summer and other vacations from school will be spent;

54 (e) The times and places for transfer of the child between the parties in connection with
55 the residential schedule;

56 (f) A plan for sharing transportation duties associated with the residential schedule;

- 57 (g) Appropriate times for telephone access;
- 58 (h) Suggested procedures for notifying the other party when a party requests a temporary
59 variation from the residential schedule;
- 60 (i) Any suggested restrictions or limitations on access to a party and the reasons such
61 restrictions are requested;
- 62 (2) A specific written plan regarding legal custody which details how the
63 decision-making rights and responsibilities will be shared between the parties including the
64 following:
- 65 (a) Educational decisions and methods of communicating information from the school
66 to both parties;
- 67 (b) Medical, dental and health care decisions including how health care providers will
68 be selected and a method of communicating medical conditions of the child and how emergency
69 care will be handled;
- 70 (c) Extracurricular activities, including a method for determining which activities the
71 child will participate in when those activities involve time during which each party is the
72 custodian;
- 73 (d) Child care providers, including how such providers will be selected;
- 74 (e) Communication procedures including access to telephone numbers as appropriate;
- 75 (f) A dispute resolution procedure for those matters on which the parties disagree or in
76 interpreting the parenting plan;
- 77 (g) If a party suggests no shared decision-making, a statement of the reasons for such a
78 request;
- 79 (3) How the expenses of the child, including child care, educational and extraordinary
80 expenses as defined in the child support guidelines established by the supreme court, will be paid
81 including:
- 82 (a) The suggested amount of child support to be paid by each party;
- 83 (b) The party who will maintain or provide health insurance for the child and how the
84 medical, dental, vision, psychological and other health care expenses of the child not paid by
85 insurance will be paid by the parties;
- 86 (c) The payment of educational expenses, if any;
- 87 (d) The payment of extraordinary expenses of the child, if any;
- 88 (e) Child care expenses, if any;
- 89 (f) Transportation expenses, if any.
- 90 8. If the proposed parenting plans of the parties differ and the parties cannot resolve the
91 differences or if any party fails to file a proposed parenting plan, upon motion of either party and
92 an opportunity for the parties to be heard, the court shall enter a temporary order containing a

93 parenting plan setting forth the arrangements specified in subsection 7 of this section which will
94 remain in effect until further order of the court. The temporary order entered by the court shall
95 not create a preference for the court in its adjudication of final custody, child support or
96 visitation.

97 9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court
98 shall have in effect guidelines for a parenting plan form which may be used by the parties
99 pursuant to this section in any dissolution of marriage, legal separation or modification
100 proceeding involving issues of custody and visitation relating to the child.

101 **10. The filing of a parenting plan for any child over the age of eighteen for whom**
102 **custody, visitation, or support is being established or modified by a court of competent**
103 **jurisdiction is not required. Nothing in this section shall be construed as precluding the**
104 **filing of a parenting plan upon agreement of the parties or if ordered to do so by the court**
105 **for any child over the age of eighteen for whom custody, visitation, or support is being**
106 **established or modified by a court of competent jurisdiction.**