

SECOND REGULAR SESSION

# HOUSE BILL NO. 2043

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PRATT.

Read 1st time March 27, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5220L.01I

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### AN ACT

To repeal sections 452.372 and 452.403, RSMo, and to enact in lieu thereof eight new sections relating to alternative dispute resolution.

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

Section A. Sections 452.372 and 452.403, RSMo, are repealed and eight new sections  
2 enacted in lieu thereof, to be known as sections 210.005, 211.015, 452.015, 452.372, 453.001,  
3 454.375, 455.003, and 475.005, to read as follows:

**210.005. 1. In any case filed under this chapter, the court may, except for good  
2 cause shown or as provided in subsection 2 of this section, order the parties to the action  
3 to participate in alternative dispute resolution under supreme court rule to resolve any  
4 issues in dispute or may set a hearing on the matter. As used in this section, "good cause"  
5 includes, but is not limited to, uncontested custody or temporary physical custody cases,  
6 or a finding of domestic violence or abuse as determined by a court with jurisdiction after  
7 all parties have received notice and an opportunity to be heard, but does not mean the  
8 absence of qualified mediators.**

**9 2. Any alternative dispute resolution ordered by the court under this section may  
10 be paid for by the parties in a proportion to be determined by the court, the cost of which  
11 shall be reasonable and customary for the circuit in which the alternative dispute  
12 resolution is ordered.**

**13 3. Any agreement reached by the parties shall not be binding on the parties until  
14 approved by the court.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340, RSMo, and supreme court rule.**

**211.015. 1. In any case filed under this chapter, the court may, except for good**  
2 **cause shown or as provided in subsection 2 of this section, order the parties to the action**  
3 **to participate in alternative dispute resolution under supreme court rule to resolve any**  
4 **issues in dispute or may set a hearing on the matter. As used in this section, "good cause"**  
5 **includes, but is not limited to, uncontested custody or temporary physical custody cases,**  
6 **or a finding of domestic violence or abuse as determined by a court with jurisdiction after**  
7 **all parties have received notice and an opportunity to be heard, but does not mean the**  
8 **absence of qualified mediators.**

9           **2. Any alternative dispute resolution ordered by the court under this section may**  
10 **be paid for by the parties in a proportion to be determined by the court, the cost of which**  
11 **shall be reasonable and customary for the circuit in which the alternative dispute**  
12 **resolution is ordered.**

13           **3. Any agreement reached by the parties shall not be binding on the parties until**  
14 **approved by the court.**

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340, RSMo, and supreme court rule.**

**452.015. 1. In any case filed under this chapter, the court may, except for good**  
2 **cause shown or as provided in subsection 2 of this section, order the parties to the action**  
3 **to participate in alternative dispute resolution under supreme court rule to resolve any**  
4 **issues in dispute or may set a hearing on the matter. As used in this section, "good cause"**  
5 **includes, but is not limited to, uncontested custody or temporary physical custody cases,**  
6 **or a finding of domestic violence or abuse as determined by a court with jurisdiction after**  
7 **all parties have received notice and an opportunity to be heard, but does not mean the**  
8 **absence of qualified mediators.**

9           **2. Any alternative dispute resolution ordered by the court under this section may**  
10 **be paid for by the parties in a proportion to be determined by the court, the cost of which**  
11 **shall be reasonable and customary for the circuit in which the alternative dispute**  
12 **resolution is ordered.**

13           **3. Any agreement reached by the parties shall not be binding on the parties until**  
14 **approved by the court.**

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340 and supreme court rule.**

**452.372. [1.] When a person files a petition for dissolution of marriage or legal**  
2 **separation and the custody or visitation of a minor child is involved, the court shall order all**

3 parties to the action to attend educational sessions pursuant to section 452.605. Parties to a  
4 modification proceeding who previously have attended educational sessions pursuant to section  
5 452.605 may also be required to attend such educational sessions.

6 [2. In cases involving custody or visitation issues, the court may, except for good cause  
7 shown or as provided in subsection 3 of this section, order the parties to the action to participate  
8 in an alternative dispute resolution program pursuant to supreme court rule to resolve any issues  
9 in dispute or may set a hearing on the matter. As used in this section, "good cause" includes, but  
10 is not limited to, uncontested custody or temporary physical custody cases, or a finding of  
11 domestic violence or abuse as determined by a court with jurisdiction after all parties have  
12 received notice and an opportunity to be heard, but does not mean the absence of qualified  
13 mediators.

14 3. Any alternative dispute resolution program ordered by the court pursuant to this  
15 section may be paid for by the parties in a proportion to be determined by the court, the cost of  
16 which shall be reasonable and customary for the circuit in which the program is ordered, and  
17 shall:

- 18 (1) Not be binding on the parties;  
19 (2) Not be ordered or used for contempt proceedings;  
20 (3) Not be ordered or utilized for child support issues; and  
21 (4) Not be used to modify a prior order of the court, except by agreement of the parties.

22 4. Within one hundred twenty days after August 28, 1998, the Missouri supreme court  
23 shall have a rule in effect allowing, but not requiring, each circuit to establish an alternative  
24 dispute resolution program for proceedings involving issues of custody and temporary physical  
25 custody relating to the child.]

**453.001. 1. In any case filed under this chapter, the court may, except for good  
2 cause shown or as provided in subsection 2 of this section, order the parties to the action  
3 to participate in alternative dispute resolution under supreme court rule to resolve any  
4 issues in dispute or may set a hearing on the matter. As used in this section, "good cause"  
5 includes, but is not limited to, uncontested custody or temporary physical custody cases,  
6 or a finding of domestic violence or abuse as determined by a court with jurisdiction after  
7 all parties have received notice and an opportunity to be heard, but does not mean the  
8 absence of qualified mediators.**

9 **2. Any alternative dispute resolution ordered by the court under this section may  
10 be paid for by the parties in a proportion to be determined by the court, the cost of which  
11 shall be reasonable and customary for the circuit in which the alternative dispute  
12 resolution is ordered.**

13           **3. Any agreement reached by the parties shall not be binding on the parties until**  
14 **approved by the court.**

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340, RSMo, and supreme court rule.**

**454.375. 1. In any case filed under this chapter, the court may, except for good**  
2 **cause shown or as provided in subsection 2 of this section, order the parties to the action**  
3 **to participate in alternative dispute resolution under supreme court rule to resolve any**  
4 **issues in dispute or may set a hearing on the matter. As used in this section, "good cause"**  
5 **includes, but is not limited to, uncontested custody or temporary physical custody cases,**  
6 **or a finding of domestic violence or abuse as determined by a court with jurisdiction after**  
7 **all parties have received notice and an opportunity to be heard, but does not mean the**  
8 **absence of qualified mediators.**

9           **2. Any alternative dispute resolution ordered by the court under this section may**  
10 **be paid for by the parties in a proportion to be determined by the court, the cost of which**  
11 **shall be reasonable and customary for the circuit in which the alternative dispute**  
12 **resolution is ordered.**

13           **3. Any agreement reached by the parties shall not be binding on the parties until**  
14 **approved by the court.**

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340, RSMo, and supreme court rule.**

**455.003. 1. In any case filed under this chapter, the court may, except for good**  
2 **cause shown or as provided in subsection 2 of this section, order the parties to the action**  
3 **to participate in alternative dispute resolution under supreme court rule to resolve any**  
4 **issues in dispute or may set a hearing on the matter. As used in this section, "good cause"**  
5 **includes, but is not limited to, uncontested custody or temporary physical custody cases,**  
6 **or a finding of domestic violence or abuse as determined by a court with jurisdiction after**  
7 **all parties have received notice and an opportunity to be heard, but does not mean the**  
8 **absence of qualified mediators.**

9           **2. Any alternative dispute resolution ordered by the court under this section may**  
10 **be paid for by the parties in a proportion to be determined by the court, the cost of which**  
11 **shall be reasonable and customary for the circuit in which the alternative dispute**  
12 **resolution is ordered.**

13           **3. Any agreement reached by the parties shall not be binding on the parties until**  
14 **approved by the court.**

15           **4. Alternative dispute resolution may be utilized or ordered for child support issues**  
16 **under section 452.340, RSMo, and supreme court rule.**

**475.005. 1. In any case filed under this chapter, 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 alternative dispute resolution under supreme court rule to resolve any issues in dispute or may set a hearing on the matter. As used in this section, "good cause" includes, but is not limited to, uncontested custody or temporary physical custody cases, or a finding of domestic violence or abuse 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 alternative dispute resolution ordered by the court under this section may 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 alternative dispute resolution is ordered.**

**3. Any agreement reached by the parties shall not be binding on the parties until approved by the court.**

**4. Alternative dispute resolution may be utilized or ordered for child support issues under section 452.340, RSMo, and supreme court rule.**

[452.403. 1. Upon the written request of a grandparent denied visitation with a grandchild, the associate division of the circuit court may order mediation with any party who has custody or visitation rights with the minor child and appoint a mediator. Such written request need not follow the rules of civil procedure and need not be written or filed by an attorney.

2. As used in this section, "mediation" is the process by which a neutral mediator appointed by the court assists the parties in reaching a mutually acceptable voluntary and consensual agreement in the best interests of the child as to issues of child care and visitation. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of common interest and finding points of agreement. An agreement reached by the parties shall be based on the decisions of the parties and not the decisions of the mediator. The agreement reached may resolve all or only some of the disputed issues.

3. At any time after the third mediation session, either party may terminate mediation ordered pursuant to this section.

4. The costs of the mediation shall be paid by the grandparent requesting the mediation order.

5. The venue shall be in the county where the child resides.]