

SECOND REGULAR SESSION

HOUSE BILL NO. 1921

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARRIS (110).

Read 1st time January 30, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4833L.01I

AN ACT

To repeal section 452.315, RSMo, and to enact in lieu thereof one new section relating to dissolution of marriage.

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

Section A. Section 452.315, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.315, to read as follows:

452.315. 1. In a proceeding for dissolution of marriage or legal separation, either party may move for temporary maintenance [and for] , temporary support for each child entitled to support, **and temporary division of marital debts**. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. In a proceeding for disposition of property, maintenance or support following the dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for maintenance and for support of each child entitled to support. This motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. This motion and the affidavit shall be served as though an original pleading upon the opposite party.

2. As a part of a motion for temporary maintenance [or] , support, **or temporary division of marital debts** or by independent motion accompanied by affidavit, either party may request the court to issue an order after notice and hearing:

(1) Restraining any person from transferring, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring the person to notify the moving party of any proposed extraordinary

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.

16 expenditures and to account to the court for all extraordinary expenditures made after the order
17 is issued;

18 (2) Enjoining a party from harassing, abusing, molesting or disturbing the peace of the
19 other party or of any child;

20 (3) Excluding a party from the family home or from the home of the other party upon
21 a showing that physical or emotional harm would otherwise result;

22 (4) Establishing and ordering compliance with a custody order and providing for the
23 support of each child;

24 **(5) Temporarily dividing marital debts.**

25 3. The court may issue a restraining order only if it finds on the evidence that irreparable
26 injury would result to the moving party if an order is not issued until the time for answering has
27 elapsed.

28 4. An answer may be filed within ten days after service of notice of motion or at the time
29 specified in the restraining order.

30 5. On the basis of the showing made and in conformity with section 452.335 on
31 maintenance and section 452.340 on support, the court may issue a temporary injunction and an
32 order for temporary maintenance or support in such amounts and on such terms as are just and
33 proper in the circumstances.

34 6. A restraining order or temporary injunction:

35 (1) Does not prejudice the rights of the parties or the child which are to be adjudicated
36 at subsequent hearings in the proceedings;

37 (2) May be revoked or modified prior to final judgment on a showing by affidavit of the
38 facts necessary to revocation or modification of a final judgment pursuant to section 452.370;
39 and

40 (3) Terminates when the final judgment is entered or when the petition for dissolution
41 or legal separation is voluntarily dismissed.

42 7. The court shall enter a temporary order requiring the provision of child support
43 pending the final judicial determination if there is clear and convincing evidence establishing a
44 presumption of paternity pursuant to section 210.822, RSMo. In determining the amount of child
45 support, the court shall consider the factors set forth in section 452.340.

46 8. Any order entered in modification or vacation of any temporary order entered pursuant
47 to this section may be retroactive to the date of entry of the original temporary order.

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