

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

AMEND House Committee Substitute No. 2 for House Committee Substitute for House Bill Nos. 1692, 1209, 1405, 1499, 1535 & 1811, Page 49, Section 441.645, Line 4, by inserting after all of said line the following:

“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 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;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation 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 family support division may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454, RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in 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;
  - (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply;
- or
- (6) Reaches age twenty-one, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-first birthday for reasons provided by subsection 4 of this section.

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, 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 semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll 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-one, 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 an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. When enrolled in at least twelve credit hours, if the child receives failing grades in half or more of his or her courseload in any one semester, payment of child support may be terminated and shall not be eligible for reinstatement. Upon request for notification of the child's grades by the noncustodial parent, the child shall produce the required documents to the noncustodial parent within thirty days of receipt of grades from the education institution. If the child fails to produce the required documents, payment of

1 child support may terminate without the accrual of any child support arrearage and shall not be  
2 eligible for reinstatement. If the circumstances of the child manifestly dictate, the court may  
3 waive the October first deadline for enrollment required by this subsection. If the child is enrolled  
4 in such an institution, the child or parent obligated to pay support may petition the court to amend  
5 the order to direct the obligated parent to make the payments directly to the child. As used in this  
6 section, an "institution of vocational education" means any postsecondary training or schooling for  
7 which the student is assessed a fee and attends classes regularly. "Higher education" means any  
8 community college, college, or university at which the child attends classes regularly. A child  
9 who has been diagnosed with a developmental disability, as defined in section 630.005, RSMo, or  
10 whose physical disability or diagnosed health problem limits the child's ability to carry the number  
11 of credit hours prescribed in this subsection, shall remain eligible for child support so long as such  
12 child is enrolled in and attending an institution of vocational or higher education, and the child  
13 continues to meet the other requirements of this subsection. A child who is employed at least  
14 fifteen hours per week during the semester may take as few as nine credit hours per semester and  
15 remain eligible for child support so long as all other requirements of this subsection are complied  
16 with.

17 6. The court shall consider ordering a parent to waive the right to claim the tax  
18 dependency exemption for a child enrolled in an institution of vocational or higher education in  
19 favor of the other parent if the application of state and federal tax laws and eligibility for financial  
20 aid will make an award of the exemption to the other parent appropriate.

21 7. The general assembly finds and declares that it is the public policy of this state that  
22 frequent, continuing and meaningful contact with both parents after the parents have separated or  
23 dissolved their marriage is in the best interest of the child except for cases where the court  
24 specifically finds that such contact is not in the best interest of the child. In order to effectuate  
25 this public policy, a court with jurisdiction shall enforce visitation, custody and child support  
26 orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or  
27 future obligation of support and may transfer the physical and legal or physical or legal custody of  
28 one or more children if it finds that a parent has, without good cause, failed to provide visitation  
29 or physical and legal or physical or legal custody to the other parent pursuant to the terms of a  
30 judgment of dissolution, legal separation or modifications thereof. The court shall also award, if  
31 requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred  
32 by the prevailing party.

33 8. The Missouri supreme court shall have in effect a rule establishing guidelines by which  
34 any award of child support shall be made in any judicial or administrative proceeding. Said  
35 guidelines shall contain specific, descriptive and numeric criteria which will result in a  
36 computation of the support obligation. 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. The Missouri supreme court shall publish child support guidelines 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 four years to ensure that its application results in the determination of appropriate child support award amounts.

9. 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. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the family support division establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to 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.

11. The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the state case registry or child support order contains the child's date of

1 birth, the obligation shall be deemed terminated without further judicial or administrative process  
2 when the child reaches age twenty-one if the child support order does not specifically require  
3 payment of child support beyond age twenty-one for reasons provided by subsection 4 of this  
4 section;

5 (2) The obligation shall be deemed terminated without further judicial or administrative  
6 process when the parent receiving child support furnishes a sworn statement or affidavit notifying  
7 the obligor parent of the child's emancipation in accordance with the requirements of subsection 4  
8 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which  
9 entered the order establishing the child support obligation, or the family support division [of child  
10 support enforcement] for an order entered pursuant to section 454.470;

11 (3) The obligation shall be deemed terminated without further judicial or administrative  
12 process when the parent paying child support files a sworn statement or affidavit with the court  
13 which entered the order establishing the child support obligation, or the family support division  
14 for an order entered pursuant to section 454.470, stating that the child is emancipated and reciting  
15 the factual basis for such statement; which statement or affidavit is served by the court or division,  
16 as applicable, on the child support obligee; and which is either acknowledged and affirmed by the  
17 child support obligee in writing, or which is not responded to in writing within thirty days of  
18 receipt by the child support obligee;

19 (4) The obligation shall be terminated as provided by this subdivision by the court which  
20 entered the order establishing the child support obligation, or the family support division for an  
21 order entered pursuant to section 454.470, when the parent paying child support files a sworn  
22 statement or affidavit with the court which entered the order establishing the child support  
23 obligation, or the family support division, as applicable, stating that the child is emancipated and  
24 reciting the factual basis for such statement; and which statement or affidavit is served by the  
25 court or division, as applicable, on the child support obligee. If the obligee denies the statement  
26 or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a  
27 [motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo,]  
28 request for hearing and shall proceed to hear and adjudicate such [motion] request for hearing as  
29 provided by law; provided that the court may require the payment of a deposit as security for court  
30 costs and any accrued court costs, as provided by law, in relation to such [motion to modify.]  
31 request for hearing. When the division receives a request for hearing, the hearing shall be held in  
32 the manner provided by section 454.475.

33 12. The court may enter a judgment terminating child support pursuant to subdivisions (1)  
34 to (3) of subsection 11 of this section without necessity of a court appearance by either party. The  
35 clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to  
36 subsection 11 of this section on both the obligor and obligee parents. The supreme court may

1 promulgate uniform forms for sworn statements and affidavits to terminate orders of child support  
2 obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.”;  
3 and  
4

5 Further amend said bill Page 54, Section 454.425, Line 57, by inserting after all of said line the  
6 following:

7 “454.475. 1. Hearings provided for in this section shall be conducted pursuant to chapter  
8 536, RSMo, by administrative hearing officers designated by the Missouri department of social  
9 services. The hearing officer shall provide the parents, the person having custody of the child, or  
10 other appropriate agencies or their attorneys with notice of any proceeding in which support  
11 obligations may be established or modified. The department shall not be stayed from enforcing  
12 and collecting upon the administrative order during the hearing process and during any appeal to  
13 the courts of this state, unless specifically enjoined by court order.

14 2. If no factual issue has been raised by the application for hearing, or the issues raised  
15 have been previously litigated or do not constitute a defense to the action, the director may enter  
16 an order without an evidentiary hearing, which order shall be a final decision entitled to judicial  
17 review as provided in sections 536.100 to 536.140, RSMo.

18 3. After full and fair hearing, the hearing officer shall make specific findings regarding the  
19 liability and responsibility, if any, of the alleged responsible parent for the support of the  
20 dependent child, and for repayment of accrued state debt or arrearages, and the costs of collection,  
21 and shall enter an order consistent therewith. In making the determination of the amount the  
22 parent shall contribute toward the future support of a dependent child, the hearing officer shall  
23 [use the scale and formula for minimum support obligations established by the department  
24 pursuant to section 454.480] consider the factors set forth in section 452.340.

25 4. If the person who requests the hearing fails to appear at the time and place set for the  
26 hearing, upon a showing of proper notice to that parent, the hearing officer shall enter findings  
27 and order in accordance with the provisions of the notice and finding of support responsibility  
28 unless the hearing officer determines that no good cause therefor exists.

29 5. In contested cases, the findings and order of the hearing officer shall be the decision of  
30 the director. Any parent or person having custody of the child adversely affected by such decision  
31 may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo, by filing a petition for  
32 review in the circuit court of proper venue within thirty days of mailing of the decision. Copies of  
33 the decision or order of the hearing officer shall be mailed to any parent, person having custody of  
34 the child and the division within fourteen days of issuance.

35 6. If a hearing has been requested, and upon request of a parent, a person having custody  
36 of the child, the division or a IV-D agency, the director shall enter a temporary order requiring the

1 provision of child support pending the final decision or order pursuant to this section if there is  
2 clear and convincing evidence establishing a presumption of paternity pursuant to section  
3 210.822, RSMo. In determining the amount of child support, the director shall consider the  
4 factors set forth in section 452.340, RSMo. The temporary order, effective upon filing pursuant to  
5 section 454.490, is not subject to a hearing pursuant to this section. The temporary order may be  
6 stayed by a court of competent jurisdiction only after a hearing and a finding by the court that the  
7 order fails to comply with rule 88.01.”; and  
8

9 Further amend said bill, Page 54, Section 454.515, Line 21, by inserting after all of said line the  
10 following:

11 “454.517. 1. The director, IV-D agency or the obligee may cause a lien for unpaid and  
12 delinquent child or spousal support to be placed upon any workers' compensation benefits payable  
13 to an obligor delinquent in child or spousal support payments.

14 2. No such lien shall be effective unless and until a written notice is filed with the director  
15 of the division of workers' compensation. The notice shall contain the name and address of the  
16 delinquent obligor, the Social Security number of the obligor, if known, the name of the obligee,  
17 and the amount of delinquent child or spousal support.

18 3. Notice of lien shall not be filed unless the delinquent child or spousal support  
19 obligation exceeds one hundred dollars.

20 4. Any person or persons, firm or firms, corporation or corporations, including an  
21 insurance carrier, making any payment of workers' compensation benefits to such obligor or to  
22 such obligor's attorneys, heirs or legal representative, after receipt of such notice, as defined in  
23 subsection 5 of this section, shall be liable to the obligee or, if support has been assigned pursuant  
24 to subsection 2 of section 208.040, RSMo, to the state or IV-D agency in an amount equal to the  
25 lesser of the workers' compensation benefits paid or delinquent child or spousal support. In such  
26 event, the lien may be enforced by a suit at law against any person or persons, firm or firms,  
27 corporation or corporations making the workers' compensation benefit payment.

28 5. Upon the filing of a notice pursuant to this section, the director of the division of  
29 workers' compensation shall mail to the obligor and to all attorneys and insurance carriers of  
30 record, a copy of the notice. The obligor, attorneys and insurance carriers shall be deemed to have  
31 received the notice within five days of the mailing of the notice by the director of the division of  
32 workers' compensation. The lien described in this section shall attach to all workers'  
33 compensation benefits which are thereafter payable.

34 6. A notice issued by the IV-D agency of this state shall advise the obligor of the  
35 procedures to contest the lien pursuant to section 454.475 on the grounds that such lien is  
36 improper due to a mistake of fact by requesting a hearing within thirty days of the mailing date of

1 the notice. At such a hearing the certified copy of the court order and the sworn or certified  
2 statement of arrearages shall constitute prima facie evidence that the director's order is valid and  
3 enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a  
4 defense. For purposes of this section, "mistake of fact" means an error in the amount of the  
5 overdue support or an error as to the identity of the obligor. The obligor shall have the burden of  
6 proof on such issues.

7 [6.] 7. In cases which are not IV-D cases, to cause a lien pursuant to the provisions of this  
8 section the obligee or the obligor's attorney shall file notice of the lien with the lienholder or  
9 payor. This notice shall have attached a certified copy of the court order with all modifications  
10 and a sworn statement by the obligee or a certified statement from the court attesting to or  
11 certifying the amount of arrearages.”; and

12  
13 Further amend said bill Page 54, Section 454.548, Line 5, by inserting after all of said line the  
14 following:

15 “454.557. 1. A current support obligation shall not be recorded in the records maintained  
16 in the automated child support system in the following cases:

17 (1) In a IV-D case with a support order pursuant to section 454.465 or 454.470 when the  
18 division determines that payments for current support are no longer due and should no longer be  
19 made to the payment center. The division shall notify by first class mail the obligor and obligee  
20 under the support orders that payments shall no longer be made to the payment center, and any  
21 withholding of income shall be terminated unless it is subsequently determined by the division or  
22 court having jurisdiction that payments will continue. The division's determination shall  
23 terminate the division's support order, but shall not terminate any obligation of support established  
24 by court order. The obligor and obligee may contest the decision of the division to terminate the  
25 division's support order by requesting a hearing within thirty days of the mailing of the notice  
26 provided pursuant to this section. The hearing shall comply with the provisions of section  
27 454.475;

28 (2) In [a] all [IV-D case] cases with a support order entered by a court when the court that  
29 issued the support order terminates such order [and notifies the division]. The division shall also  
30 cease enforcing the order if no past support is due; or

31 (3) In all cases when the [child is twenty-two years of age, unless a court orders support to  
32 continue. The obligor or obligee may contest the decision of the division to terminate accruing  
33 support orders by requesting a hearing within thirty days of the mailing of notice by the division.  
34 The hearing shall comply with the provisions of section 454.475. The issue at the hearing, if any,  
35 shall be limited to a mistake of fact as to the age of the child or the existence of a court order  
36 requiring support after the age of twenty-two] obligation of a parent to make child support



1 payments is deemed terminated pursuant to subdivisions (1) to (4) of subsection 11 of section  
2 452.340.

3 2. Nothing in this section shall affect or terminate the amount due for unpaid past support.

4 454.1003. 1. A court or the director of the division of child support enforcement may  
5 issue an order, or in the case of a business, professional or occupational license, only a court may  
6 issue an order, suspending an obligor's license and ordering the obligor to refrain from engaging in  
7 a licensed activity in the following cases:

8 (1) When the obligor is not making child support payments in accordance with a [court]  
9 support order and owes an arrearage in an amount greater than or equal to three months support  
10 payments or two thousand five hundred dollars, whichever is less, as of the date of service of a  
11 notice of intent to suspend such license; or

12 (2) When the obligor or any other person, after receiving appropriate notice, fails to  
13 comply with a subpoena of a court or the director concerning actions relating to the establishment  
14 of paternity, or to the establishment, modification or enforcement of support orders, or order of  
15 the director for genetic testing.

16 2. In any case but a IV-D case, upon the petition of an obligee alleging the existence of an  
17 arrearage, a court with jurisdiction over the support order may issue a notice of intent to suspend a  
18 license. In a IV-D case, the director, or a court at the request of the director, may issue a notice of  
19 intent to suspend.

20 3. The notice of intent to suspend a license shall be served on the obligor personally or by  
21 certified mail. If the proposed suspension of license is based on the obligor's support arrearage,  
22 the notice shall state that the obligor's license shall be suspended sixty days after service unless,  
23 within such time, the obligor:

24 (1) Pays the entire arrearage stated in the notice;

25 (2) Enters into and complies with a payment plan approved by the court or the division; or

26 (3) Requests a hearing before the court or the director.

27 4. In a IV-D case, the notice shall advise the obligor that hearings are subject to the  
28 contested case provisions of chapter 536, RSMo.

29 5. If the proposed suspension of license is based on the alleged failure to comply with a  
30 subpoena relating to paternity or a child support proceeding, or order of the director for genetic  
31 testing, the notice of intent to suspend shall inform the person that such person's license shall be  
32 suspended sixty days after service, unless the person complies with the subpoena or order.

33 6. If the obligor fails to comply with the terms of repayment agreement, a court or the  
34 division may issue a notice of intent to suspend the obligor's license.

35 7. In addition to the actions to suspend or withhold licenses pursuant to this chapter, a  
36 court or the director of the division of child support enforcement may restrict such licenses in

1 accordance with the provisions of this chapter.”; and  
2  
3 Further amend said bill by amending the title, enacting clause, and intersectional references  
4 accordingly.  
5