

SECOND REGULAR SESSION

# HOUSE BILL NO. 1818

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRAKER.

4240H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 452.335, RSMo, and to enact in lieu thereof one new section relating to maintenance orders.

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

Section A. Section 452.335, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.335, to read as follows:

452.335. 1. In a proceeding for nonretroactive invalidity, dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order to either spouse, but only if it finds that the spouse seeking maintenance:

(1) Lacks sufficient property, including marital property apportioned to him **or her**, to provide for his **or her** reasonable needs; and

(2) Is unable to support himself **or herself** through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

2. The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(1) The financial resources of the party seeking maintenance, including marital property apportioned to him **or her**, and his **or her** ability to meet his **or her** needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(2) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

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.

- 18 (3) The comparative earning capacity of each spouse;  
19 (4) The standard of living established during the marriage;  
20 (5) The obligations and assets, including the marital property apportioned to him **or her**  
21 and the separate property of each party;  
22 (6) The duration of the marriage;  
23 (7) The age, and the physical and emotional condition of the spouse seeking  
24 maintenance;  
25 (8) The ability of the spouse from whom maintenance is sought to meet his **or her** needs  
26 while meeting those of the spouse seeking maintenance;  
27 (9) The conduct of the parties during the marriage; and  
28 (10) Any other relevant factors.

29 3. The maintenance order shall state if it is modifiable or nonmodifiable. [The court may  
30 order maintenance which includes a termination date.] Unless the maintenance order [which  
31 includes a termination date] is nonmodifiable, the court may order the maintenance decreased,  
32 increased, terminated, extended, or otherwise modified based upon a substantial and continuing  
33 change of circumstances which occurred prior to the termination date of the original order.

34 **4. (1) All maintenance orders shall include a termination date, except maintenance**  
35 **orders under subdivisions (1) or (3) of subsection 5 of this section. The duration of all**  
36 **maintenance orders shall not exceed fifty percent of the length of the marriage, from the**  
37 **date of entry of the original order; except that, any maintenance obligation which is in**  
38 **arrearage at the scheduled termination date shall not terminate until the obligor has repaid**  
39 **such arrearage in full. No additional obligation shall accrue after the scheduled**  
40 **termination date.**

41 **(2) Any modifiable maintenance order in effect on the effective date of this section**  
42 **and not in arrears may be automatically terminated after maintenance has been paid for**  
43 **fifty percent or greater of the number of months of the length of the marriage. The**  
44 **maintenance obligation of any obligor who is in arrears shall not be terminated until such**  
45 **obligor has repaid the entire arrearage in full.**

46 **(3) Any obligor who meets the requirements of this subsection may seek an**  
47 **automatic termination of his or her maintenance obligation by filing notice with the court**  
48 **of the obligor's intent to terminate his or her maintenance obligation in accordance with**  
49 **this section and submitting evidence sufficient to establish that the obligor's maintenance**  
50 **obligation is paid in full and not in arrears. The court shall, without a hearing, verify**  
51 **whether the maintenance obligation is paid in full and not in arrears. Upon such**  
52 **verification, the court shall automatically terminate the obligor's maintenance obligation**

53 and notify the obligee of such termination, to be effective six months after the obligor's  
54 filing notice with the court of the intent to terminate maintenance.

55 (4) During the final six-month period of continued maintenance payments or period  
56 of repayment of arrearages by an obligor under this subsection, the court shall not modify  
57 the existing order of maintenance.

58 (5) Nothing in this subsection shall be construed as invalidating or otherwise  
59 nullifying a termination date of any order of maintenance in existence on the effective date  
60 of this section which terminates a maintenance obligation less than fifty percent of the  
61 length of the marriage.

62 5. Notwithstanding the provisions of subsection 4 of this section, maintenance  
63 orders may be extended for the following reasons:

64 (1) If the spouse receiving maintenance is physically or mentally incapacitated at  
65 the time of dissolution from supporting himself or herself and is insolvent, the court may  
66 extend the maintenance obligation past the termination date and such obligation may be  
67 for a specified period of time. Any extension of the maintenance obligation past the  
68 termination date shall be subject to review by the court at the request of either party;  
69 except that, such review shall not be requested more than once in any twelve-month period;

70 (2) At least one minor child of the marriage physically lives in the home of the  
71 recipient. Maintenance granted under this subdivision shall be for a reasonable time  
72 period, as decided by the court, but no longer than when the youngest child is six years of  
73 age or older;

74 (3) If a child of the marriage is physically or mentally incapacitated from  
75 supporting himself or herself, insolvent, unmarried, and lives in the home of the recipient,  
76 the court may extend the maintenance order until the child is able to provide for himself  
77 or herself or the child is deceased; or

78 (4) Pursuant to any valid settlement agreement entered into by both parties to the  
79 dissolution.

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