

FIRST REGULAR SESSION

HOUSE BILL NO. 1082

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (141).

2235H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 454.425, 454.455, and 454.530, RSMo, and to enact in lieu thereof five new sections relating to child support.

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

Section A. Sections 454.425, 454.455, and 454.530, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 454.425, 454.455, 454.530, 454.1900, and 454.1903, to read as follows:

454.425. **1.** The family support division shall render child support services authorized pursuant to this chapter to persons who are not recipients of public assistance as well as to such recipients. Services may be provided to children, custodial parents, noncustodial parents and other persons entitled to receive support. An application may be required by the division for services ~~[and fees may be charged by]~~ .

2. The division **may charge fees and recover costs** pursuant to 42 U.S.C. Section 654 and federal regulations.

3. **The director may issue an order directing any employer or other payer of a parent owing a fee to withhold and pay over to the division moneys due to the division under subsection 2 of this section. An order entered under this subsection shall be served on the employer or other payer by regular mail, by certified mail, return receipt requested, or issued through electronic means and shall be binding on the employer or other payer two weeks after mailing or electronic issuance of such service. A copy of the order shall be mailed to the parent at the parent's last known address. The notice shall advise the parent that the withholding has commenced and the of procedures to contest such withholding under section 454.475 by requesting a hearing thirty days from the mailing**

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.

17 of the notice. The employer or other payer shall withhold from the earnings or other
18 income of each parent the amount specified in the order; except that, the total amount
19 withheld shall not exceed the limitations contained in the federal Consumer Credit
20 Protection Act, 15 U.S.C. Section 1673(a). The employer or other payer shall transmit the
21 payments as directed in the order within seven business days of the date the earnings,
22 moneys due, or other income was payable to the parent. For purposes of this section,
23 "business day" means a day that state offices are open for regular business. If the order
24 does not contain the Social Security number of the parent, the employer or other payer
25 shall not be liable for withholding from the incorrect parent. An order issued under this
26 subsection shall be a continuing order and shall remain in effect and be binding against
27 any employer or other payer upon whom it is directed until paid in full or until a further
28 order of the director.

29 4. Services provided under a state plan shall be made available to residents of other states
30 on the same terms as residents of this state. If a family receiving services ceases to receive
31 assistance under a state program funded under Part A of Title IV of the Social Security Act, the
32 division shall provide appropriate notice to such family, and services shall continue under the
33 same terms and conditions as that provided to other individuals under the state plan, except that
34 an application for continued services shall not be required and the requirement for payment of
35 [fees] **an application fee** shall not apply to the family.

454.455. 1. In any case wherein an order for child support has been entered and the
2 [legal] custodian [~~and obligee pursuant to the order~~] relinquishes physical custody of the child
3 to a caretaker relative [~~without obtaining a modification of legal custody,~~] **or parent** and the
4 caretaker relative **or parent** makes an assignment of support rights to the family support division
5 in order to receive [~~aid to families with dependent children benefits~~] **temporary assistance for**
6 **needy families**, the relinquishment and the assignment, by operation of law, shall transfer the
7 child support obligation pursuant to the order to the division in behalf of the state. The
8 assignment shall terminate when the caretaker relative **or parent** no longer has physical custody
9 of the child, except for those unpaid support obligations still owing to the state pursuant to the
10 assignment at that time.

11 2. As used in [~~subsection 1 of~~] this section, the term "caretaker relative" includes only
12 those persons listed in subdivision (2) of subsection 1 of section 208.040 **or 13 CSR 40-2.310**.

13 3. If an order for child support has been entered, no assignment [~~of support has been~~
14 ~~made~~] **of support rights has been made in order to receive temporary assistance for needy**
15 **families**, and the [legal] custodian [~~and obligee under the order~~] relinquishes physical custody
16 of the child to a caretaker relative [~~without obtaining a modification of legal custody~~] **or parent**,
17 or the child is placed by the court in the legal custody of a state agency, the division may, thirty

18 days after the transfer of custody and upon notice to the obligor and obligee **under the order**,
19 direct the obligor or other payer to change the payee to the caretaker relative, **parent**, or
20 appropriate state agency. An order changing the payee to a caretaker relative, **parent, or state**
21 **agency** shall terminate when the caretaker relative **or parent** no longer has physical custody of
22 the child, or the state agency is relieved of legal custody, except for the unpaid support
23 obligations still owed to the caretaker relative or the state.

24 4. If there has been an assignment of support to an agency or division of the state or a
25 requirement to pay through a state disbursement unit, the division may, upon notice to the
26 obligor and obligee, direct the obligor or other payer to change the payee to the appropriate state
27 agency.

28 **5. If the custodian relinquishes custody of one or more, but not all, of the children**
29 **included under the order, the obligation amount shall be equally apportioned by dividing**
30 **the obligation amount by the number of children in the order. The obligation amount**
31 **assigned to the family support division shall be the apportioned amount multiplied by the**
32 **number of children receiving temporary assistance for needy families in the caretaker**
33 **relative's or parent's household. The obligation amount in the change of payee order shall**
34 **be the apportioned obligation amount multiplied by the number of children who are living**
35 **with the caretaker relative or parent or in the custody of the state agency. The obligation**
36 **of the obligee shall be the apportioned obligation amount multiplied by the number of**
37 **children residing with the obligee.**

454.530. 1. On or before October 1, 1999, the family support division shall establish and
2 operate a state disbursement unit to be known as the "Family Support Payment Center" for the
3 receipt and disbursement of payments pursuant to support orders for:

- 4 (1) All cases enforced by the division pursuant to section 454.400; and
5 (2) Any case required by federal law to be collected or disbursed by the payment center
6 including, but not limited to, cases in which a support order is initially issued on or after January
7 1, 1994, in which the income of the obligor is subject to withholding; and
8 (3) Beginning July 1, 2001:
9 (a) Any other case with a support order in which payments are ordered or directed by a
10 court or the division to be made to the payment center or in which the income of the obligor is
11 subject to withholding; and
12 (b) Any case prior to July 1, 2001, in which support payments are ordered paid to the
13 clerk of the court as trustee pursuant to section 452.345.

14 2. The family support payment center shall be operated by the division, in conjunction
15 with other state agencies pursuant to a cooperative agreement, or by a contractor responsible
16 directly to the division. Notwithstanding any other provision of law to the contrary, after notice

17 by the division or the court that issued the support order to the obligor that all future payments
18 shall be made to the payment center, the payment center shall become trustee for payments made
19 by parents, employers, states and other entities, and all future payments shall be made to the
20 payment center. The payment center shall disburse payments to custodial parents and other
21 obligees, the state or agencies of other states, **or an alternate caretaker designated in a**
22 **notarized written record by the custodial parent. An alternate caretaker is a caretaker**
23 **who is not included in subdivision (2) of subsection 1 of section 208.040 or 13 CSR 40-2.310**
24 **and is designated by the custodial parent to take care of a child or children for a temporary**
25 **period of time. The custodial parent may terminate the designation of the alternate**
26 **caretaker at any time by providing notice to the division.** If the payment center is operated
27 by a contractor and the contractor receives and disburses the payments, the contractor shall have
28 an annual audit conducted by an independent certified public accountant. The audit will
29 determine whether funds received are disbursed or otherwise accounted for, and make
30 recommendations as to the procedures and changes that the contractor should take to protect the
31 funds received from misappropriation and theft. A copy of the audit shall be delivered to the
32 division, the office of administration and the office of the state courts administrator.

33 3. Except as otherwise provided in sections 454.530 to 454.560, the payment center shall
34 disburse support payments within two business days after receipt from the employer or other
35 source of periodic income, if sufficient information identifying the payee is provided. As used
36 in sections 454.530 to 454.560, "business day" means a day state government offices are open
37 for regular business. Disbursement of payments made toward arrearages may be delayed until
38 the resolution of any timely appeal with respect to such arrearage or upon order of a court.

39 4. The family support payment center shall establish an electronic funds transfer system
40 for the transfer of child support payments. Obligees who want electronic transfer of support
41 payments to a designated account shall complete an application for direct deposit and submit it
42 to the family support payment center. The family support payment center may issue an electronic
43 access card for the purpose of disbursing support payments to any obligee not using automated
44 deposit to a designated account. Any person or employer may, without penalty, choose to
45 disburse payments to the payment center by check or draft instead of by electronic transfer.

454.1900. As used in this section and section 454.1903, the following terms shall
2 **mean:**

3 **(1) "Arrearage", the amount created by a failure to provide:**

4 **(a) Support for a child under an administrative or judicial support order; or**

5 **(b) Support for a spouse if the judgment or order requiring payment of spousal**
6 **support also requires payment of child support and such spouse is the custodial parent;**

- 7 (2) "Business day", a day on which state government offices are open for regular
8 business;
- 9 (3) "Director", the director of the family support division;
- 10 (4) "Division", the family support division of the department of social services;
- 11 (5) "Excursion gambling boat", a boat, ferry, or other floating facility licensed by
12 the Missouri gaming commission on which gambling games are allowed under sections
13 313.800 to 313.850;
- 14 (6) "Gambling boat winnings", the winnings required to be reported to the Internal
15 Revenue Service on Form W-2G or a substantially equivalent form;
- 16 (7) "IV-D case", a case in which the division is providing services under section
17 454.400;
- 18 (8) "Obligor", any person who owes a duty of support as determined by a court or
19 administrative agency of competent jurisdiction;
- 20 (9) "Support order", a judgment, decree, or order, whether temporary, final, or
21 subject to modification, issued by a court or administrative agency of competent
22 jurisdiction for the support and maintenance of a child, including a child who has attained
23 the age of majority under the law of the issuing state, or of the parent with whom the child
24 is living and providing monetary support, health care, child care, arrearages or
25 reimbursement for such child, and which may include related costs and fees, interest and
26 penalties, income withholding, attorney's fees, and other relief.
- 454.1903. 1. The division is authorized in accordance with this section to intercept
2 excursion gambling boat winnings from an obligor owing an arrearage under a support
3 order in a IV-D case.
- 4 2. For purposes of intercepting excursion gambling boat winnings under this
5 section, the division shall furnish excursion gambling boats with the following information:
- 6 (1) The obligor's name and Social Security number;
- 7 (2) The IV-D case number; and
- 8 (3) The arrearage amount owed by the obligor.
- 9 3. The division shall provide and excursion gambling boats shall receive the
10 information required under subsection 2 of this section through a secure electronic means.
11 The information provided by the division shall be deemed confidential as set forth in
12 section 454.440 and shall be accessed and used only for the purposes set forth in this
13 section.
- 14 4. Before payment of gambling boat winnings to a person, an excursion gambling
15 boat shall:

16 **(1) Obtain the name, address, and Social Security number of the winner from the**
17 **Form W-2G or a substantially equivalent form required to be filed with the Internal**
18 **Revenue Service; and**

19 **(2) Access the information provided by the division and make all reasonable efforts**
20 **to determine if the winner is an obligor who owes an arrearage.**

21 **5. If the winner is determined to be an obligor who owes an arrearage, all of the**
22 **following shall apply:**

23 **(1) The excursion gambling boat shall deduct from the gambling boat winnings an**
24 **amount equal to the total winnings after taxes or the arrearage amount provided by the**
25 **division, whichever is less;**

26 **(2) In reimbursement of its costs of complying with this section, an excursion**
27 **gambling boat may withhold an amount not to exceed twenty-five dollars from the**
28 **gambling boat winnings, if any, in excess of the amount withheld under subdivision (1) of**
29 **this subsection;**

30 **(3) The excursion gambling boat shall provide the obligor with a written notice in**
31 **the format set forth by the division that includes:**

32 **(a) The amount deducted from the gambling boat winnings under subdivisions (1)**
33 **and (2) of this subsection;**

34 **(b) The reason and authority for the deduction; and**

35 **(c) An explanation of the obligor's right to contest the deduction to the division and**
36 **information necessary to contact the division; and**

37 **(4) The excursion gambling boat shall disburse winnings deducted under**
38 **subdivision (1) of this subsection to the family support payment center within two business**
39 **days of deducting the gambling boat winnings. The excursion gambling boat shall also**
40 **provide to the family support payment center the obligor's full name, address, Social**
41 **Security number, and IV-D case number or numbers provided by the division.**

42 **6. To contest the interception of gambling boat winnings the obligor may request**
43 **a hearing from the division within thirty days of the interception. Failure to request a**
44 **hearing in writing within thirty days of the interception shall be deemed a waiver of the**
45 **opportunity to contest the interception. Upon timely receipt of a request for a hearing**
46 **from an obligor, the director shall grant a hearing in accordance with section 454.475.**

47 **7. No excursion gambling boat shall be liable under any federal or state law to any**
48 **person:**

49 **(1) For any disclosure of information to the division under this section;**

50 **(2) For deducting or surrendering gambling boat winnings in accordance with this**
51 **section; or**

52 **(3) For any other action taken in good faith to comply with this section.**

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