

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 834, Page 12, Section 217.947, Line 9, by inserting after said section and line the
3 following:
4

5 "452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

6 (1) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole
7 physical custody or any combination thereof;

8 (2) "Joint legal custody" means that the parents share the decision-making rights,
9 responsibilities, and authority relating to the health, education and welfare of the child, and, unless
10 allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of
11 decision-making rights, responsibilities, and authority;

12 (3) "Joint physical custody" means an order awarding each of the parents significant, but not
13 necessarily equal, periods of time during which a child resides with or is under the care and
14 supervision of each of the parents. Joint physical custody shall be shared by the parents in such a
15 way as to assure the child of frequent, continuing and meaningful contact with both parents;

16 (4) "Third-party custody" means a third party designated as a legal and physical custodian
17 pursuant to subdivision (5) of subsection 5 of this section.

18 2. The court shall determine custody in accordance with the best interests of the child. When
19 the parties have not reached an agreement on all issues related to custody, the court shall consider all
20 relevant factors and enter written findings of fact and conclusions of law, including, but not limited
21 to, the following:

22 (1) The wishes of the child's parents as to custody and the proposed parenting plan
23 submitted by both parties;

24 (2) The needs of the child for a frequent, continuing and meaningful relationship with both
25 parents and the ability and willingness of parents to actively perform their functions as mother and
26 father for the needs of the child;

27 (3) The interaction and interrelationship of the child with parents, siblings, and any other
28 person who may significantly affect the child's best interests;

29 (4) Which parent is more likely to allow the child frequent, continuing and meaningful
30 contact with the other parent;

Action Taken _____ Date _____

1 (5) The child's adjustment to the child's home, school, and community;

2 (6) The mental and physical health of all individuals involved, including any history of
3 abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined
4 in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive
5 parent is in the best interest of the child, then the court shall enter written findings of fact and
6 conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the
7 child and any other child or children for whom the parent has custodial or visitation rights, and the
8 parent or other family or household member who is the victim of domestic violence from any
9 further harm;

10 (7) The intention of either parent to relocate the principal residence of the child; and

11 (8) The wishes of a child as to the child's custodian. The fact that a parent sends his or her
12 child or children to a home school, as defined in section 167.031, shall not be the sole factor that a
13 court considers in determining custody of such child or children.

14 3. (1) In any court proceedings relating to custody of a child, the court shall not award
15 custody or unsupervised visitation of a child to a parent if such parent or any person residing with
16 such parent has been found guilty of, or pled guilty to, any of the following offenses when a child
17 was the victim:

18 (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061, 566.062,
19 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203, 566.206,
20 566.209, 566.211, or 566.215;

21 (b) A violation of section 568.020;

22 (c) A violation of subdivision (2) of subsection 1 of section 568.060;

23 (d) A violation of section 568.065;

24 (e) A violation of section 573.200;

25 (f) A violation of section 573.205; or

26 (g) A violation of section 568.175.

27 (2) For all other violations of offenses in chapters 566 and 568 not specifically listed in
28 subdivision (1) of this subsection or for a violation of an offense committed in another state when a
29 child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the
30 court may exercise its discretion in awarding custody or visitation of a child to a parent if such
31 parent or any person residing with such parent has been found guilty of, or pled guilty to, any such
32 offense.

33 4. The general assembly finds and declares that it is the public policy of this state that
34 frequent, continuing and meaningful contact with both parents after the parents have separated or
35 dissolved their marriage is in the best interest of the child, except for cases where the court
36 specifically finds that such contact is not in the best interest of the child, and that it is the public
37 policy of this state to encourage parents to participate in decisions affecting the health, education
38 and welfare of their children, and to resolve disputes involving their children amicably through
39 alternative dispute resolution. In order to effectuate these policies, the court shall determine the

1 custody arrangement which will best assure both parents participate in such decisions and have
2 frequent, continuing and meaningful contact with their children so long as it is in the best interests
3 of the child.

4 5. Prior to awarding the appropriate custody arrangement in the best interest of the child, the
5 court shall consider each of the following as follows:

6 (1) Joint physical and joint legal custody to both parents, which shall not be denied solely
7 for the reason that one parent opposes a joint physical and joint legal custody award. The residence
8 of one of the parents shall be designated as the address of the child for mailing and educational
9 purposes;

10 (2) Joint physical custody with one party granted sole legal custody. The residence of one
11 of the parents shall be designated as the address of the child for mailing and educational purposes;

12 (3) Joint legal custody with one party granted sole physical custody;

13 (4) Sole custody to either parent; or

14 (5) Third-party custody or visitation:

15 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or
16 the welfare of the child requires, and it is in the best interests of the child, then custody, temporary
17 custody or visitation may be awarded a person related by consanguinity or affinity to the child. If
18 no person related to the child by consanguinity or affinity is willing to accept custody, then the court
19 may award custody to any other person or persons deemed by the court to be suitable and able to
20 provide an adequate and stable environment for the child; however, priority shall be given to the
21 grandparent or grandparents of the child. Before the court awards custody, temporary custody or
22 visitation to a third person under this subdivision, the court shall make that person a party to the
23 action;

24 (b) Under the provisions of this subsection, any person may petition the court to intervene as
25 a party in interest at any time as provided by supreme court rule.

26 6. If the parties have not agreed to a custodial arrangement, or the court determines such
27 arrangement is not in the best interest of the child, the court shall include a written finding in the
28 judgment or order based on the public policy in subsection 4 of this section and each of the factors
29 listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors
30 that made a particular arrangement in the best interest of the child. If a proposed custodial
31 arrangement is rejected by the court, the court shall include a written finding in the judgment or
32 order detailing the specific relevant factors resulting in the rejection of such arrangement.

33 7. Upon a finding by the court that either parent has refused to exchange information with
34 the other parent, which shall include but not be limited to information concerning the health,
35 education and welfare of the child, the court shall order the parent to comply immediately and to
36 pay the prevailing party a sum equal to the prevailing party's cost associated with obtaining the
37 requested information, which shall include but not be limited to reasonable attorney's fees and court
38 costs.

39 8. As between the parents of a child, no preference may be given to either parent in the

1 awarding of custody because of that parent's age, sex, or financial status, nor because of the age or
2 sex of the child. The court shall not presume that a parent, solely because of his or her sex, is more
3 qualified than the other parent to act as a joint or sole legal or physical custodian for the child.

4 9. Any judgment providing for custody shall include a specific written parenting plan setting
5 forth the terms of such parenting plan arrangements specified in subsection 8 of section 452.310.
6 Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the
7 absence thereof, a plan determined by the court, but in all cases, the custody plan approved and
8 ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

9 10. After August 28, 2016, every court order establishing or modifying custody or visitation
10 shall include the following language: "In the event of noncompliance with this order, the aggrieved
11 party may file a verified motion for contempt. If custody, visitation, or third-party custody is denied
12 or interfered with by a parent or third party without good cause, the aggrieved person may file a
13 family access motion with the court stating the specific facts that constitute a violation of the
14 custody provisions of the judgment of dissolution, legal separation, or judgment of paternity. The
15 circuit clerk will provide the aggrieved party with an explanation of the procedures for filing a
16 family access motion and a simple form for use in filing the family access motion. A family access
17 motion does not require the assistance of legal counsel to prepare and file."

18 11. No court shall adopt any local rule, form, or practice requiring a standardized or default
19 parenting plan for interim, temporary, or permanent orders or judgments. Notwithstanding any other
20 provision of law to the contrary, a court may enter an interim order in a proceeding under this
21 chapter, provided that the interim order shall not contain any provisions about child custody or a
22 parenting schedule or plan without first providing the parties with notice and a hearing, unless the
23 parties otherwise agree.

24 12. Unless a parent has been denied custody rights pursuant to this section or visitation
25 rights under section 452.400, both parents shall have access to records and information pertaining to
26 a minor child including, but not limited to, medical, dental, and school records. If the parent
27 without custody has been granted restricted or supervised visitation because the court has found that
28 the parent with custody or any child has been the victim of domestic violence, as defined in section
29 455.010, by the parent without custody, the court may order that the reports and records made
30 available pursuant to this subsection not include the address of the parent with custody or the child.
31 A court shall order that the reports and records made available under this subsection not include the
32 address of the parent with custody if the parent with custody is a participant in the address
33 confidentiality program under section 589.663. Unless a parent has been denied custody rights
34 pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or
35 other applicable court order shall specifically allow both parents access to such records and reports.

36 13. Except as otherwise precluded by state or federal law, if any individual, professional,
37 public or private institution or organization denies access or fails to provide or disclose any and all
38 records and information, including, but not limited to, past and present dental, medical and school
39 records pertaining to a minor child, to either parent upon the written request of such parent, the court

1 shall, upon its finding that the individual, professional, public or private institution or organization
2 denied such request without good cause, order that party to comply immediately with such request
3 and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and
4 court costs associated with obtaining the requested information.

5 14. An award of joint custody does not preclude an award of child support pursuant to
6 section 452.340 and applicable supreme court rules. The court shall consider the factors contained
7 in section 452.340 and applicable supreme court rules in determining an amount reasonable or
8 necessary for the support of the child.

9 15. If the court finds that domestic violence or abuse as defined in section 455.010 has
10 occurred, the court shall make specific findings of fact to show that the custody or visitation
11 arrangement ordered by the court best protects the child and the parent or other family or household
12 member who is the victim of domestic violence, as defined in section 455.010, and any other
13 children for whom such parent has custodial or visitation rights from any further harm."; and

14
15 Further amend said bill by amending the title, enacting clause, and intersectional references
16 accordingly.