

FIRST REGULAR SESSION

HOUSE BILL NO. 862

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDERSON.

1456H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 452.340, 452.375, 452.377, 452.780, 453.110, and 475.060, RSMo, and to enact in lieu thereof six new sections relating to child custody, with penalty provisions.

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

Section A. Sections 452.340, 452.375, 452.377, 452.780, 453.110, and 475.060, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 452.340, 452.375, 452.377, 452.780, 453.110, and 475.060, to read as follows:

- 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.

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 2. The obligation of the parent ordered to make support payments shall abate, in
17 whole or in part, for such periods of time in excess of thirty consecutive days that the other
18 parent **or third party custodian** has voluntarily relinquished physical custody of a child to
19 the parent ordered to pay child support, notwithstanding any periods of visitation or
20 temporary physical and legal or physical or legal custody pursuant to a judgment of
21 dissolution or legal separation or any modification thereof, **or has permanently transferred**
22 **custody of the child to a third party in violation of section 453.110**. In a IV-D case, the
23 family support division may determine the amount of the abatement pursuant to this
24 subsection for any child support order and shall record the amount of abatement in the
25 automated child support system record established pursuant to chapter 454. If the case is not
26 a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the
27 automated child support system record established in chapter 454.

28 3. Unless the circumstances of the child manifestly dictate otherwise and the court
29 specifically so provides, the obligation of a parent to make child support payments shall
30 terminate when the child:

31 (1) Dies;

32 (2) Marries;

33 (3) Enters active duty in the military;

34 (4) Becomes self-supporting, provided that the custodial parent has relinquished the
35 child from parental control by express or implied consent;

36 (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section
37 apply; or

38 (6) Reaches age twenty-one, unless the provisions of the child support order
39 specifically extend the parental support order past the child's twenty-first birthday for reasons
40 provided by subsection 4 of this section.

41 4. If the child is physically or mentally incapacitated from supporting himself and
42 insolvent and unmarried, the court may extend the parental support obligation past the child's
43 eighteenth birthday.

44 5. If when a child reaches age eighteen, the child is enrolled in and attending a
45 secondary school program of instruction, the parental support obligation shall continue, if the
46 child continues to attend and progresses toward completion of said program, until the child
47 completes such program or reaches age twenty-one, whichever first occurs. If the child is
48 enrolled in an institution of vocational or higher education not later than October first
49 following graduation from a secondary school or completion of a graduation equivalence
50 degree program and so long as the child enrolls for and completes at least twelve hours of
51 credit each semester, not including the summer semester, at an institution of vocational or
52 higher education and achieves grades sufficient to reenroll at such institution, the parental

53 support obligation shall continue until the child completes his or her education, or until the
54 child reaches the age of twenty-one, whichever first occurs. To remain eligible for such
55 continued parental support, at the beginning of each semester the child shall submit to each
56 parent a transcript or similar official document provided by the institution of vocational or
57 higher education which includes the courses the child is enrolled in and has completed for
58 each term, the grades and credits received for each such course, and an official document
59 from the institution listing the courses which the child is enrolled in for the upcoming term
60 and the number of credits for each such course. When enrolled in at least twelve credit hours,
61 if the child receives failing grades in half or more of his or her courseload in any one
62 semester, payment of child support may be terminated and shall not be eligible for
63 reinstatement. Upon request for notification of the child's grades by the noncustodial parent,
64 the child shall produce the required documents to the noncustodial parent within thirty days of
65 receipt of grades from the education institution. If the child fails to produce the required
66 documents, payment of child support may terminate without the accrual of any child support
67 arrearage and shall not be eligible for reinstatement. If the circumstances of the child
68 manifestly dictate, the court may waive the October first deadline for enrollment required by
69 this subsection. If the child is enrolled in such an institution, the child or parent obligated to
70 pay support may petition the court to amend the order to direct the obligated parent to make
71 the payments directly to the child. As used in this section, an "institution of vocational
72 education" means any postsecondary training or schooling for which the student is assessed a
73 fee and attends classes regularly. "Higher education" means any community college, college,
74 or university at which the child attends classes regularly. A child who has been diagnosed
75 with a developmental disability, as defined in section 630.005, or whose physical disability or
76 diagnosed health problem limits the child's ability to carry the number of credit hours
77 prescribed in this subsection, shall remain eligible for child support so long as such child is
78 enrolled in and attending an institution of vocational or higher education, and the child
79 continues to meet the other requirements of this subsection. A child who is employed at least
80 fifteen hours per week during the semester may take as few as nine credit hours per semester
81 and remain eligible for child support so long as all other requirements of this subsection are
82 complied with.

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

87 7. The general assembly finds and declares that it is the public policy of this state that
88 frequent, continuing and meaningful contact with both parents after the parents have
89 separated or dissolved their marriage is in the best interest of the child except for cases where

90 the court specifically finds that such contact is not in the best interest of the child. In order to
91 effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and
92 child support orders in the same manner. A court with jurisdiction may abate, in whole or in
93 part, any past or future obligation of support and may transfer the physical and legal or
94 physical or legal custody of one or more children if it finds that a parent has, without good
95 cause, failed to provide visitation or physical and legal or physical or legal custody to the
96 other parent pursuant to the terms of a judgment of dissolution, legal separation or
97 modifications thereof. The court shall also award, if requested and for good cause shown,
98 reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

99 8. The Missouri supreme court shall have in effect a rule establishing guidelines by
100 which any award of child support shall be made in any judicial or administrative proceeding.
101 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a
102 computation of the support obligation. The guidelines shall address how the amount of child
103 support shall be calculated when an award of joint physical custody results in the child or
104 children spending equal or substantially equal time with both parents and the directions and
105 comments and any tabular representations of the directions and comments for completion of
106 the child support guidelines and a subsequent form developed to reflect the guidelines shall
107 reflect the ability to obtain up to a fifty percent adjustment or credit below the basic child
108 support amount for joint physical custody or visitation as described in subsection 11 of this
109 section. The Missouri supreme court shall publish child support guidelines and specifically
110 list and explain the relevant factors and assumptions that were used to calculate the child
111 support guidelines. Any rule made pursuant to this subsection shall be reviewed by the
112 promulgating body not less than once every four years to ensure that its application results in
113 the determination of appropriate child support award amounts.

114 9. There shall be a rebuttable presumption, in any judicial or administrative
115 proceeding for the award of child support, that the amount of the award which would result
116 from the application of the guidelines established pursuant to subsection 8 of this section is
117 the correct amount of child support to be awarded. A written finding or specific finding on
118 the record in a judicial or administrative proceeding that the application of the guidelines
119 would be unjust or inappropriate in a particular case, after considering all relevant factors,
120 including the factors set out in subsection 1 of this section, shall be required and shall be
121 sufficient to rebut the presumption in the case. The written finding or specific finding on the
122 record shall detail the specific relevant factors that required a deviation from the application
123 of the guidelines.

124 10. Pursuant to this or any other chapter, when a court determines the amount owed
125 by a parent for support provided to a child by another person, other than a parent, prior to the
126 date of filing of a petition requesting support, or when the director of the family support

127 division establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of
128 section 454.465, the court or director shall use the guidelines established pursuant to
129 subsection 8 of this section. The amount of child support resulting from the application of the
130 guidelines shall be applied retroactively for a period prior to the establishment of a support
131 order and the length of the period of retroactivity shall be left to the discretion of the court or
132 director. There shall be a rebuttable presumption that the amount resulting from application
133 of the guidelines under subsection 8 of this section constitutes the amount owed by the parent
134 for the period prior to the date of the filing of the petition for support or the period for which
135 state debt is being established. In applying the guidelines to determine a retroactive support
136 amount, when information as to average monthly income is available, the court or director
137 may use the average monthly income of the noncustodial parent, as averaged over the period
138 of retroactivity, in determining the amount of presumed child support owed for the period of
139 retroactivity. The court or director may enter a different amount in a particular case upon
140 finding, after consideration of all relevant factors, including the factors set out in subsection 1
141 of this section, that there is sufficient cause to rebut the presumed amount.

142 11. The court may award child support in an amount that provides up to a fifty
143 percent adjustment below the basic child support amount authorized by the child support
144 guidelines described under subsection 8 of this section for custody awards of joint physical
145 custody where the child or children spend equal or substantially equal time with both parents.

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

148 (1) Provided that the state case registry or child support order contains the child's date
149 of birth, the obligation shall be deemed terminated without further judicial or administrative
150 process when the child reaches age twenty-one if the child support order does not specifically
151 require payment of child support beyond age twenty-one for reasons provided by subsection 4
152 of this section;

153 (2) The obligation shall be deemed terminated without further judicial or
154 administrative process when the parent receiving child support furnishes a sworn statement
155 or affidavit notifying the obligor parent of the child's emancipation in accordance with the
156 requirements of subsection 4 of section 452.370, and a copy of such sworn statement or
157 affidavit is filed with the court which entered the order establishing the child support
158 obligation, or the family support division for an order entered under section 454.470;

159 (3) The obligation shall be deemed terminated without further judicial or
160 administrative process when the parent paying child support files a sworn statement or
161 affidavit with the court which entered the order establishing the child support obligation, or
162 the family support division for an order entered under section 454.470, stating that the child is
163 emancipated and reciting the factual basis for such statement; which statement or affidavit is

164 served by the court or division, as applicable, on the child support obligee; and which is either
165 acknowledged and affirmed by the child support obligee in writing, or which is not responded
166 to in writing within thirty days of receipt by the child support obligee;

167 (4) The obligation shall be terminated as provided by this subdivision by the court
168 which entered the order establishing the child support obligation, or the family support
169 division for an order entered under section 454.470, when the parent paying child support
170 files a sworn statement or affidavit with the court which entered the order establishing the
171 child support obligation, or the family support division, as applicable, stating that the child is
172 emancipated and reciting the factual basis for such statement; and which statement or
173 affidavit is served by the court or division, as applicable, on the child support obligee. If the
174 obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn
175 statement or affidavit as a request for hearing and shall proceed to hear and adjudicate such
176 request for hearing as provided by law; provided that the court may require the payment of a
177 deposit as security for court costs and any accrued court costs, as provided by law, in relation
178 to such request for hearing. When the division receives a request for hearing, the hearing
179 shall be held in the manner provided by section 454.475.

180 13. The court may enter a judgment terminating child support pursuant to
181 subdivisions (1) to (3) of subsection 12 of this section without necessity of a court appearance
182 by either party. The clerk of the court shall mail a copy of a judgment terminating child
183 support entered pursuant to subsection 12 of this section on both the obligor and obligee
184 parents. The supreme court may promulgate uniform forms for sworn statements and
185 affidavits to terminate orders of child support obligations for use pursuant to subsection 12 of
186 this section and subsection 4 of section 452.370.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 3. (1) In any court proceedings relating to custody of a child, the court shall not
42 award custody or unsupervised visitation of a child to a parent if such parent or any person
43 residing with such parent has been found guilty of, or pled guilty to, any of the following
44 offenses when a child was the victim:

45 (a) A felony violation of section 566.030, 566.031, 566.032, 566.060, 566.061,
46 566.062, 566.064, 566.067, 566.068, 566.083, 566.100, 566.101, 566.111, 566.151, 566.203,
47 566.206, 566.209, 566.211, or 566.215;

48 (b) A violation of section 568.020;

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

50 (d) A violation of section 568.065;

51 (e) A violation of section 573.200;

52 (f) A violation of section 573.205; or

53 (g) A violation of section 568.175.

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

60 4. The general assembly finds and declares that it is the public policy of this state that
61 frequent, continuing and meaningful contact with both parents after the parents have
62 separated or dissolved their marriage is in the best interest of the child, except for cases where
63 the court specifically finds that such contact is not in the best interest of the child, and that it
64 is the public policy of this state to encourage parents to participate in decisions affecting the
65 health, education and welfare of their children, and to resolve disputes involving their
66 children amicably through alternative dispute resolution. In order to effectuate these policies,
67 the court shall determine the custody arrangement which will best assure both parents
68 participate in such decisions and have frequent, continuing and meaningful contact with their
69 children so long as it is in the best interests of the child.

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

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

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

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

80 (4) Sole custody to either parent; or

81 (5) Third-party custody or visitation:

82 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a
83 custodian, or the welfare of the child requires, and it is in the best interests of the child, then
84 custody, temporary custody or visitation may be awarded to a person related by consanguinity
85 or affinity to the child. If no person related to the child by consanguinity or affinity is willing
86 to accept custody, then the court may award custody to any other person or persons deemed
87 by the court to be suitable and able to provide an adequate and stable environment for the
88 child. Before the court awards custody, temporary custody or visitation to a third person

89 under this subdivision, the court shall ~~[make that person]~~ **notify the child's relatives, as**
90 **identified in subdivisions (1), (2), and (3) of subsection 3 of section 210.565, if their**
91 **identities are known and their addresses may reasonably be ascertained, and any**
92 **persons with whom the child has resided within five years, as identified under section**
93 **452.780, prior to the institution of the action for child custody that they may intervene**
94 **and seek third party custody, temporary custody, or visitation. No person shall be**
95 **granted third party custody, temporary custody, or visitation who has not first been**
96 **made a party to the action;**

97 (b) Under the provisions of this subsection, any person may petition the court to
98 intervene as a party in interest at any time, **and the court shall allow such intervention as a**
99 **matter of right**, as provided by supreme court rule;

100 (c) **As provided under subsection 4 of section 210.565, priority and preference in**
101 **the award of third party custody shall be given to an intervening party in the order of**
102 **preference set forth in subsection 3 of section 210.565;**

103 (d) **No order denying third party contact with a child shall be entered by the**
104 **court against a third party who has not been made a party to the action unless the court**
105 **finds that such third party may not be found and joined as a party.**

106 6. If the parties have not agreed to a custodial arrangement, or the court determines
107 such arrangement is not in the best interest of the child, the court shall include a written
108 finding in the judgment or order based on the public policy in subsection 4 of this section and
109 each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the
110 specific relevant factors that made a particular arrangement in the best interest of the child. If
111 a proposed custodial arrangement is rejected by the court, the court shall include a written
112 finding in the judgment or order detailing the specific relevant factors resulting in the
113 rejection of such arrangement.

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

120 8. As between the parents of a child, no preference may be given to either parent in
121 the awarding of custody because of that parent's age, sex, or financial status, nor because of
122 the age or sex of the child. The court shall not presume that a parent, solely because of his or
123 her sex, is more qualified than the other parent to act as a joint or sole legal or physical
124 custodian for the child.

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

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

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

147 12. Unless a parent has been denied custody rights pursuant to this section or
148 visitation rights under section 452.400, both parents shall have access to records and
149 information pertaining to a minor child including, but not limited to, medical, dental, and
150 school records. If the parent without custody has been granted restricted or supervised
151 visitation because the court has found that the parent with custody or any child has been the
152 victim of domestic violence, as defined in section 455.010, by the parent without custody, the
153 court may order that the reports and records made available pursuant to this subsection not
154 include the address of the parent with custody or the child. A court shall order that the reports
155 and records made available under this subsection not include the address of the parent with
156 custody if the parent with custody is a participant in the address confidentiality program under
157 section 589.663. Unless a parent has been denied custody rights pursuant to this section or
158 visitation rights under section 452.400, any judgment of dissolution or other applicable court
159 order shall specifically allow both parents access to such records and reports.

160 13. Except as otherwise precluded by state or federal law, if any individual,
161 professional, public or private institution or organization denies access or fails to provide or

162 disclose any and all records and information, including, but not limited to, past and present
163 dental, medical and school records pertaining to a minor child, to either parent upon the
164 written request of such parent, the court shall, upon its finding that the individual,
165 professional, public or private institution or organization denied such request without good
166 cause, order that party to comply immediately with such request and to pay to the prevailing
167 party all costs incurred, including, but not limited to, attorney's fees and court costs associated
168 with obtaining the requested information.

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

173 15. If the court finds that domestic violence or abuse as defined in section 455.010
174 has occurred, the court shall make specific findings of fact to show that the custody or
175 visitation arrangement ordered by the court best protects the child and the parent or other
176 family or household member who is the victim of domestic violence, as defined in section
177 455.010, and any other children for whom such parent has custodial or visitation rights from
178 any further harm.

452.377. 1. For purposes of this section and section 452.375, "relocate" or
2 "relocation" means a change in the principal residence of a child for a period of ninety days or
3 more, but does not include a temporary absence from the principal residence, **and shall**
4 **include the permanent transfer of custody of a child as provided in section 453.110.**

5 2. Notice of a proposed relocation of the residence of the child, or any party entitled
6 to custody or visitation of the child, shall be given in writing by certified mail, return receipt
7 requested, to any party with custody or visitation rights. Absent exigent circumstances as
8 determined by a court with jurisdiction, written notice shall be provided at least sixty days in
9 advance of the proposed relocation. **A copy of the notice and a certificate of service shall**
10 **be filed with the court.** The notice of the proposed relocation shall include the following
11 information:

12 (1) The intended new residence, including the specific address and mailing address, if
13 known, and if not known, the city;

14 (2) The home telephone number of the new residence, if known;

15 (3) The date of the intended move or proposed relocation;

16 (4) A brief statement of the specific reasons for the proposed relocation of a child, if
17 applicable;

18 (5) A proposal for a revised schedule of custody or visitation with the child, if
19 applicable; and

20 (6) The other party's right, if that party is a parent, to file a motion, pursuant to this
21 section, seeking an order to prevent the relocation and an accompanying affidavit setting forth
22 the specific good-faith factual basis for opposing the relocation within thirty days of receipt of
23 the notice.

24 3. **(1) In cases involving a proposed permanent transfer of custody of a child to a**
25 **third party under section 453.110, the legal custodian shall give notice of the proposed**
26 **change in residence or location of the child to any noncustodial parent whose last known**
27 **address is on record with the court. Such notice shall be in writing and shall be**
28 **provided at least sixty days in advance of the proposed transfer, absent exigent**
29 **circumstances as determined by the court. The notice shall not include the actual**
30 **address to which the child will be relocated, but shall include information on the**
31 **noncustodial parent's right, under section 453.110, to intervene and seek custody of the**
32 **child. A copy of the notice and certificate of service shall be filed with the court. A**
33 **noncustodial parent shall provide written notice of a change in his or her address to the**
34 **custodial parent and shall file such notice with the court, along with a certificate of**
35 **service.**

36 (2) **After August 28, 2023, every court order establishing or modifying custody**
37 **shall include the addresses of the legal custodians and noncustodial parents for**
38 **notification purposes and shall advise the noncustodial parent to file a notice of address**
39 **change as described in this subsection. If a party is a participant in the address**
40 **confidentiality program under section 589.663, such party shall not be required to**
41 **provide his or her actual address to the other parties but shall submit such information**
42 **under seal to the court for in camera review. Prior to disclosure of this information, a**
43 **court shall comply with the provisions of section 589.664.**

44 4. If a party seeking to relocate a child is a participant in the address confidentiality
45 program under section 589.663, such party shall not be required to provide the information in
46 subdivision (1) of subsection 2 of this section, but may be required to submit such
47 information under seal to the court for in camera review. Prior to disclosure of this
48 information, a court shall comply with the provisions of section 589.664.

49 ~~[4-]~~ 5. A party required to give notice of a proposed relocation pursuant to subsection
50 2 of this section has a continuing duty to provide a change in or addition to the information
51 required by this section as soon as such information becomes known.

52 ~~[5-]~~ 6. In exceptional circumstances where the court makes a finding that the health or
53 safety of any adult or child would be unreasonably placed at risk by the disclosure of the
54 required identifying information concerning a proposed relocation of the child, the court may
55 order that:

56 (1) The specific residence address and telephone number of the child, parent or
57 person, and other identifying information shall not be disclosed in the pleadings, notice, other
58 documents filed in the proceeding or the final order except for an in camera disclosure;

59 (2) The notice requirements provided by this section shall be waived to the extent
60 necessary to protect the health or safety of a child or any adult; or

61 (3) Any other remedial action the court considers necessary to facilitate the legitimate
62 needs of the parties and the best interest of the child.

63 ~~[6-]~~ 7. The court shall consider a failure to provide notice of a proposed relocation of
64 a child as:

65 (1) A factor in determining whether custody and visitation should be modified;

66 (2) A basis for ordering the return of the child if the relocation occurs without notice;

67 and

68 (3) Sufficient cause to order the party seeking to relocate the child to pay reasonable
69 expenses and attorneys fees incurred by the party objecting to the relocation.

70 ~~[7-]~~ 8. If the parties agree to a revised schedule of custody and visitation for the child,
71 which includes a parenting plan, they may submit the terms of such agreement to the court
72 with a written affidavit signed by all parties with custody or visitation assenting to the terms
73 of the agreement, and the court may order the revised parenting plan and applicable visitation
74 schedule without a hearing.

75 ~~[8-]~~ 9. The residence of the child may be relocated sixty days after providing notice,
76 as required by this section, unless a parent files a motion seeking an order to prevent the
77 relocation within thirty days after receipt of such notice. Such motion shall be accompanied
78 by an affidavit setting forth the specific good-faith factual basis supporting a prohibition of
79 the relocation. The person seeking relocation shall file a response to the motion within
80 fourteen days, unless extended by the court for good cause, and include a counter-affidavit
81 setting forth the facts in support of the relocation as well as a proposed revised parenting plan
82 for the child.

83 ~~[9-]~~ 10. If relocation of the child is proposed, a third party entitled by court order to
84 legal custody of or visitation with a child and who is not a parent may file a cause of action to
85 obtain a revised schedule of legal custody or visitation, but shall not prevent a relocation,
86 **except as otherwise provided under this section and section 453.110.**

87 ~~[10-]~~ 11. The party seeking to relocate shall have the burden of proving that the
88 proposed relocation is made in good faith and is in the best interest of the child.

89 ~~[11-]~~ 12. If relocation is permitted:

90 (1) The court shall order contact with the nonrelocating party including custody or
91 visitation and telephone access sufficient to assure that the child has frequent, continuing and

92 meaningful contact with the nonrelocating party unless the child's best interest warrants
93 otherwise; and

94 (2) The court shall specify how the transportation costs will be allocated between the
95 parties and adjust the child support, as appropriate, considering the costs of transportation.

96 ~~[12.]~~ **13.** After August 28, 1998, every court order establishing or modifying custody
97 or visitation shall include the following language:

98 "Absent exigent circumstances as determined by a court with jurisdiction,
99 you, as a party to this action, are ordered to notify, in writing by certified
100 mail, return receipt requested, and at least sixty days prior to the proposed
101 relocation, each party to this action of any proposed relocation of the
102 principal residence of the child, including the following information:

- 103 (1) The intended new residence, including the specific address and
104 mailing address, if known, and if not known, the city;
- 105 (2) The home telephone number of the new residence, if known;
- 106 (3) The date of the intended move or proposed relocation;
- 107 (4) A brief statement of the specific reasons for the proposed relocation
108 of the child;
- 109 (5) A proposal for a revised schedule of custody or visitation with the
110 child; and
- 111 (6) The other party's right, if that party is a parent, to file a motion,
112 pursuant to Section 452.377, RSMo, seeking an order to prevent the
113 relocation and an accompanying affidavit setting forth the specific
114 good-faith factual basis for opposing the relocation within thirty days
115 of receipt of the notice.

116 Your obligation to provide this information to each party continues as long
117 as you or any other party by virtue of this order is entitled to custody of a
118 child covered by this order. Your failure to obey the order of this court
119 regarding the proposed relocation may result in further litigation to enforce
120 such order, including contempt of court. In addition, your failure to notify a
121 party of a relocation of the child may be considered in a proceeding to
122 modify custody or visitation with the child. Reasonable costs and attorney
123 fees may be assessed against you if you fail to give the required notice."

124 ~~[13.]~~ **14.** A participant in the address confidentiality program under section 589.663
125 shall not be required to provide a requesting party with the specific physical or mailing
126 address of the child's proposed relocation destination, but in the event of an objection by a
127 requesting party, a participant may be required to submit such information under seal to the

128 court for in camera review. Prior to disclosure of this information, a court shall comply with
129 the provisions of section 589.664.

130 ~~[14:]~~ **15.** Violation of the provisions of this section or a court order under this section
131 may be deemed a change of circumstance under section 452.410, allowing the court to modify
132 the prior custody decree. In addition, the court may utilize any and all powers relating to
133 contempt conferred on it by law or rule of the Missouri supreme court.

134 ~~[15:]~~ **16.** Any party who objects in good faith to the relocation of a child's principal
135 residence shall not be ordered to pay the costs and attorney's fees of the party seeking to
136 relocate.

452.780. 1. Subject to local law providing for the confidentiality of procedures,
2 addresses, and other identifying information, in a child custody proceeding each party, in its
3 first pleading or in an attached affidavit, shall give information, if reasonably ascertainable,
4 under oath as to the child's present address, the places where the child has lived during the last
5 five years, and the names and present addresses of the persons with whom the child has lived
6 during such period. The pleading or affidavit shall state whether the party:

7 (1) Has participated, as a party or witness or in any other capacity, in any other
8 proceeding concerning the custody of or visitation with the child and, if so, identify the court,
9 case number of the proceeding and date of the child custody determination, if any;

10 (2) Knows of any proceeding that could affect the current proceeding, including
11 proceedings for enforcement and proceedings relating to domestic violence, protective orders,
12 termination of parental rights, and adoptions and, if so, identify the court and case number
13 and nature of the proceeding; and

14 (3) Knows the names and addresses of any person not a party to the proceeding who
15 has physical custody of the child or claims rights of legal custody or physical custody of, or
16 visitation with, the child and, if so, the names and addresses of such persons.

17 2. If the information required by subsection 1 of this section is not furnished, the
18 court, upon its own motion or that of a party, may stay the proceeding until the information is
19 furnished.

20 3. If the declaration as to any of the items described in subdivisions (1) to (3) of
21 subsection 1 of this section is in the affirmative, the declarant shall give additional
22 information under oath as required by the court. The court may examine the parties under
23 oath as to details of the information furnished and other matters pertinent to the court's
24 jurisdiction and the disposition of the case.

25 4. Each party has a continuing duty to inform the court of any proceeding in this or
26 any other state that could affect the current proceeding.

27 5. If a party alleges in an affidavit or a pleading under oath that the health, safety, or
28 liberty of a party or child would be put at risk by the disclosure of identifying information,

29 that information shall be sealed and not disclosed to the other party or the public unless the
30 court orders the disclosure to be made after a hearing in which the court takes into
31 consideration the health, safety, or liberty of the party or child and determines that the
32 disclosure is in the interest of justice.

33 **6. Any person who knowingly, purposefully, or intentionally fails to give**
34 **accurate, full, and complete information as required under this section is guilty of a**
35 **class A misdemeanor, and upon discovery of said violation, any public employee, officer,**
36 **or agent having knowledge of such violation shall transmit notice of the violation to the**
37 **prosecuting or circuit attorney of the county or city in which the child resided at the**
38 **time of transfer.**

453.110. 1. No person, agency, organization or institution shall surrender custody of
2 a minor child, or transfer the custody of such a child to another, and no person, agency,
3 organization or institution shall take possession or charge of a minor child so transferred,
4 without first having filed a petition before the circuit court sitting as a juvenile court of the
5 county where the child may be, praying that such surrender or transfer may be made, and
6 having obtained such an order from such court approving or ordering transfer of custody.

7 2. If any such surrender or transfer is made without first obtaining such an order, such
8 court shall, on petition of any public official or interested person, agency, organization or
9 institution, order an investigation and report as described in section 453.070 to be completed
10 by the children's division and shall make such order as to the custody of such child in the best
11 interest of such child.

12 3. **A noncustodial parent or third party interested in securing custody of the**
13 **child shall be granted the right to intervene and to seek custody of the child, as provided**
14 **under section 453.375; provided, however, if the child is the subject of a prior custody or**
15 **guardianship order, subject to modification, the court shall transfer the matter to the**
16 **court having jurisdiction over the custody of the child.**

17 4. Any person who violates the terms of this section is guilty of a class E felony, **and**
18 **upon discovery of such violation, any public employee, officer, or agent having**
19 **knowledge of such violation shall transmit notice of the violation to the prosecuting or**
20 **circuit attorney of the county or city in which the child resided at the time of transfer.**

21 ~~[4-]~~ 5. The investigation required by subsection 2 of this section shall be initiated by
22 the children's division within forty-eight hours of the filing of the court order requesting the
23 investigation and report and shall be completed within thirty days. The court shall order the
24 person having custody in violation of the provisions of this section to pay the costs of the
25 investigation and report.

26 ~~[5-]~~ 6. This section shall not be construed to prohibit any parent, agency, organization
27 or institution from placing a child with another individual for care if the right to supervise the

28 care of the child and to resume custody thereof is retained, or from placing a child with a
29 licensed foster home within the state through a child-placing agency licensed by this state as
30 part of a preadoption placement.

31 ~~[6-]~~ 7. After the filing of a petition for the transfer of custody for the purpose of
32 adoption, the court may enter an order of transfer of custody if the court finds all of the
33 following:

34 (1) A family assessment has been made as required in section 453.070 and has been
35 reviewed by the court;

36 (2) A recommendation has been made by the guardian ad litem;

37 (3) A petition for transfer of custody for adoption has been properly filed or an order
38 terminating parental rights has been properly filed;

39 (4) The financial affidavit has been filed as required under section 453.075;

40 (5) The written report regarding the child who is the subject of the petition containing
41 the information has been submitted as required by section 453.026;

42 (6) Compliance with the Indian Child Welfare Act, if applicable; and

43 (7) Compliance with the Interstate Compact on the Placement of Children pursuant to
44 section 210.620.

45 ~~[7-]~~ 8. A hearing on the transfer of custody for the purpose of adoption is not required
46 if:

47 (1) The conditions set forth in subsection 6 of this section are met;

48 (2) The parties agree and the court grants leave; and

49 (3) Parental rights have been terminated pursuant to section 211.444 or 211.447.

475.060. 1. Any person may file a petition for the appointment of himself or herself
2 or some other qualified person as guardian of a minor **who is not currently subject to a**
3 **prior custody order in a court of competent jurisdiction.** Such petition **shall include the**
4 **information required under section 452.780 and** shall state:

5 (1) The name, age, domicile, actual place of residence and post office address of the
6 minor if known and if any of these facts is unknown, the efforts made to ascertain that fact;

7 (2) The estimated value of the minor's real and personal property, and the location and
8 value of any real property owned by the minor outside of this state;

9 (3) If the minor has no domicile or place of residence in this state, the county in which
10 the property or major part thereof of the minor is located;

11 (4) The name and address of the parents of the minor and whether they are living or
12 dead;

13 (5) The name and address of the spouse, and the names, ages and addresses of all
14 living children of the minor;

15 (6) The name and address of the person having custody of the person of the minor or
16 who claims to have custody of the person of the minor;

17 (7) The name and address of any guardian of the person or conservator of the estate of
18 the minor appointed in this or any other state;

19 (8) If appointment is sought for a natural person, other than the public administrator,
20 the names and addresses of wards and disabled persons for whom such person is already
21 guardian or conservator;

22 (9) The name and address of the trustees and the purpose of any trust of which the
23 minor is a qualified beneficiary;

24 (10) The reasons why the appointment of a guardian is sought;

25 (11) A petition for the appointment of a guardian of a minor may be filed for the sole
26 and specific purpose of school registration or medical insurance coverage. Such a petition
27 shall clearly set out this limited request and shall not be combined with a petition for
28 conservatorship;

29 (12) If the petitioner requests the appointment of co-guardians, a statement of the
30 reasons why such appointment is sought and whether the petitioner requests that the co-
31 guardians, if appointed, may act independently or whether they may act only together or only
32 together with regard to specified matters;

33 (13) That written consent has been obtained from any person, including a public
34 administrator, who is to be appointed as a co-guardian; and

35 (14) Whether the petitioner knows of any other court having jurisdiction over the
36 minor and the name of the court, if known.

37 2. Any person may file a petition for the appointment of himself or herself or some
38 other qualified person as guardian or limited guardian of an incapacitated person. Such
39 petition shall state:

40 (1) If known, the name, age, domicile, actual place of residence, and post office
41 address of the alleged incapacitated person, and for the period of three years before the filing
42 of the petition, the most recent addresses, up to three, at which the alleged incapacitated
43 person lived prior to the most recent address, and if any of these facts is unknown, the efforts
44 made to ascertain that fact. In the case of a petition filed by a public official in his or her
45 official capacity, the information required by this subdivision need only be supplied to the
46 extent it is reasonably available to the petitioner;

47 (2) The estimated value of the alleged incapacitated person's real and personal
48 property, and the location and value of any real property owned by the alleged incapacitated
49 person outside of this state;

50 (3) If the alleged incapacitated person has no domicile or place of residence in this
51 state, the county in which the property or major part thereof of the alleged incapacitated
52 person is located;

53 (4) The name and address of the parents of the alleged incapacitated person and
54 whether they are living or dead;

55 (5) The name and address of the spouse, the names, ages, and addresses of all living
56 children of the alleged incapacitated person, the names and addresses of the alleged
57 incapacitated person's closest known relatives, and the names and relationship, if known, of
58 any adults living with the alleged incapacitated person; if no spouse, adult child, or parent is
59 listed, the names and addresses of the siblings and children of deceased siblings of the alleged
60 incapacitated person; the name and address of any agent appointed by the alleged
61 incapacitated person in any durable power of attorney, and of the presently acting trustees of
62 any trust of which the alleged incapacitated person is the grantor or is a qualified beneficiary
63 or is or was the trustee or cotrustee and the purpose of the power of attorney or trust;

64 (6) The name and address of the person having custody of the person of the alleged
65 incapacitated person;

66 (7) The name and address of any guardian of the person or conservator of the estate of
67 the alleged incapacitated person appointed in this or any other state;

68 (8) If appointment is sought for a natural person, other than the public administrator,
69 the names and addresses of wards and protectees for whom such person is already guardian or
70 conservator;

71 (9) The factual basis for the petitioner's conclusion that the person for whom
72 guardianship is sought is unable or partially unable by reason of some specified physical,
73 mental, or cognitive condition to receive and evaluate information or to communicate
74 decisions to such an extent that the person lacks capacity to meet essential requirements for
75 food, clothing, shelter, safety, or other care such that serious physical injury, illness, or disease
76 is likely to occur;

77 (10) The reasons, incidents, and specific behaviors demonstrating why the
78 appointment of a guardian or limited guardian is sought;

79 (11) If the petitioner suggests the appointment of co-guardians, a statement of the
80 reasons why such appointment is sought and whether the petitioner suggests that the co-
81 guardians, if appointed, may act independently or whether they may act only together or only
82 together with regard to specified matters; and

83 (12) Written consent has been obtained from any person, including a public
84 administrator, who is to be appointed as a co-guardian.

85 3. If the person filing the petition seeks the appointment of an emergency guardian,
86 the petition shall include the same requirements as provided in subsection 1 of this section

87 and shall request the appointment per the requirements provided in subsection 15 of section
88 475.075.

89 **4. Notice of the application for guardianship shall be given to the persons**
90 **identified under section 452.780, each of whom shall have the right to intervene and to**
91 **seek guardianship as provided herein. Failure to give notice to such persons identified**
92 **under section 452.780 shall be grounds to set aside the appointment of the guardian.**

93 **5. As provided under subsection 4 of section 210.565, priority and preference in**
94 **the award of guardianship to a third party other than a parent of a child shall be given**
95 **to a party in the order of preference set forth in subsection 3 of section 210.565.**

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