

SECOND REGULAR SESSION

HOUSE BILL NO. 2851

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHARPE (4).

5960H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 452.335 and 452.370, RSMo, and to enact in lieu thereof two new sections relating to domestic relations.

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

Section A. Sections 452.335 and 452.370, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 452.335 and 452.370, to read as follows:

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

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

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

11 2. **The general assembly hereby finds and declares that every spouse has a**
12 **continuing duty to become self-supporting following the dissolution of a marriage, so**
13 **long as physically and mentally capable. Further, maintenance is not intended as a**
14 **substitute for gainful employment, an open-ended obligation without limitation, or a**
15 **guaranty of a certain standard of living.** The maintenance order shall be in such amounts
16 and for such periods of time as the court deems just, and after considering all relevant factors,
17 including:

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

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

25 (3) The comparative earning capacity of each spouse **and the efforts made by each**
26 **spouse to take steps to become self-supporting in accordance with subsection 2 of this**
27 **section;**

28 (4) The standard of living established during the marriage **considered in light of**
29 **subsection 2 of this section;**

30 (5) The obligations and assets, including the marital property apportioned to him **or**
31 **her** and the separate property of each party;

32 (6) The duration of the marriage;

33 (7) The age[,] and the physical and emotional condition of ~~[the spouse seeking~~
34 ~~maintenance]~~ **each party;**

35 (8) The ability of the spouse from whom maintenance is sought to meet his **or her**
36 needs while meeting those of the spouse seeking maintenance;

37 (9) The conduct of the parties during the marriage; and

38 (10) Any other relevant factors.

39 3. The maintenance order shall state if it is **bridge, rehabilitative, or durational and**
40 **whether the order is** modifiable or nonmodifiable. The court ~~[may]~~ **shall** order maintenance
41 which includes a termination date **in accordance with the provisions of this section.** Unless
42 the maintenance order which includes a termination date is nonmodifiable, the court may
43 order the maintenance decreased, increased, terminated, extended, or otherwise modified
44 based upon a substantial and continuing change of circumstances which occurred prior to the
45 termination date of the original order, **provided that no maintenance order shall be**
46 **modified to extend its duration in excess of the limits established in this section, except**
47 **as provided in subsection 10 of this section.**

48 4. For purposes of determining maintenance only, or a modification thereto, a
49 **short-term marriage is a marriage having a duration of less than seven years; a**
50 **moderate-term marriage is a marriage having a duration of seven years or more but less**
51 **than seventeen years; and a long-term marriage is a marriage having a duration of**
52 **seventeen years or more. The duration of a marriage is the period of time from the first**
53 **day of the marriage until the date of the filing of a petition for dissolution of marriage or**
54 **legal separation.**

55 **5. Bridge maintenance may be awarded to assist a party to a short-term**
56 **marriage seeking maintenance with legitimate, identifiable short-term needs. The**
57 **length of the maintenance shall not exceed two years. An award of bridge maintenance**
58 **shall terminate upon the death of either party or upon the remarriage of the party**
59 **receiving maintenance. An award of bridge maintenance shall not be modifiable in**
60 **amount or duration.**

61 **6. (1) Rehabilitative maintenance may be awarded to assist a party to a short-**
62 **term or moderate-term marriage seeking maintenance in establishing the capacity for**
63 **self-support through either:**

64 **(a) The redevelopment of previous skills or credentials; or**

65 **(b) The acquisition of education, training, or work experience necessary to**
66 **develop appropriate employment skills or credentials.**

67 **(2) The length of the rehabilitative maintenance shall not exceed four years.**

68 **(3) An award of rehabilitative maintenance may be modified or terminated**
69 **based upon substantial and continuing changed circumstances, as a result of the failure,**
70 **or insufficient efforts being made by the party receiving rehabilitative maintenance, to**
71 **establish the capacity for self-support as provided in this subsection, or upon completion**
72 **of the rehabilitative efforts contemplated by this subsection, provided that the length of**
73 **the maintenance shall not be modified to exceed the limits set forth in this subsection,**
74 **except in accordance with subsection 10 of this section.**

75 **7. Durational maintenance may be awarded to provide for the needs and**
76 **necessities of life as they were established during a moderate-term or long-term**
77 **marriage. Durational maintenance may be awarded if such an award is appropriate**
78 **upon consideration of the factors set forth in subsection 2 of this section.**

79 **8. Except as provided in subsection 10 of this section, a court shall not order**
80 **durational maintenance that remains in effect for more than:**

81 **(1) Five years if the duration of the marriage was seven years or more but less**
82 **than twelve years;**

83 **(2) Seven years if the duration of the marriage was twelve years or more but less**
84 **than seventeen years; or**

85 **(3) Ten years if the duration of the marriage was seventeen years or more.**

86

87 **An award of durational maintenance may be modified in accordance with the provisions**
88 **of subsection 3 of this section, provided that the length of the maintenance shall not be**
89 **modified to exceed the limits set forth in this subsection, except as provided in**
90 **subsection 10 of this section.**

91 **9. In establishing the term of durational maintenance, and for purposes of all**
92 **maintenance modifications decided on or after August 28, 2024, the court shall consider**
93 **all relevant factors including, but not limited to:**

94 **(1) The retirement, or the prospect and ability of the payor of maintenance to**
95 **retire, from full-time employment or reduce his or her employment status to part-time**
96 **or accept lower paying employment as part of a plan to retire;**

97 **(2) The age of the party paying maintenance;**

98 **(3) The duration and amount of maintenance already paid, and the efforts made**
99 **by the party seeking maintenance to become self-supporting;**

100 **(4) The likelihood that the lifestyle of both spouses may reasonably decline**
101 **following a dissolution of marriage or legal separation and as the parties approach**
102 **retirement age; and**

103 **(5) The provisions of subsection 2 of this section.**

104 **10. Notwithstanding the limits set forth in subsections 6 and 8 of this section, a**
105 **court may award durational maintenance or modify rehabilitative or durational**
106 **maintenance in excess of the limits set forth in this section if the court specifically finds,**
107 **after consideration of all relevant factors, including those set forth in subsection 2 of this**
108 **section, that:**

109 **(1) Such limits will result in a substantial and continuing hardship for the party**
110 **seeking, or currently receiving maintenance;**

111 **(2) The party seeking maintenance meets the criteria in subdivisions (1) and (2)**
112 **of subsection 1 of this section;**

113 **(3) The party seeking maintenance will be unable to establish the capacity for**
114 **self-support within the maintenance limits set forth in subsection 6 or 8 of this section**
115 **for the applicable marital duration at issue; and**

116 **(4) Extending the maintenance further under this subsection is just and fair to**
117 **both parties.**

118
119 **If the court extends the duration of the maintenance under this subsection, the court**
120 **shall enter written findings of fact and conclusions of law setting forth the grounds for**
121 **exceeding the limits set forth in this section in the order establishing or modifying**
122 **rehabilitative or durational maintenance, specifically addressing subdivisions (1) to (4)**
123 **of this subsection, provided that absent findings made by the court in accordance with**
124 **this subsection, the maximum duration for any maintenance ordered under this**
125 **subsection, or in any proceeding where maintenance is considered, shall be the lesser of**
126 **a time period equal to fifty percent of the duration of the marriage at issue, calculated**
127 **from the date of the marriage through separation, or fifteen years. The court shall also**

incorporate as part of any modifiable maintenance order entered under this chapter a specific order that the party receiving maintenance has an affirmative duty to make reasonable and continuing efforts to establish the capacity for self-support and to become self-supporting, and the failure to do so may be relied upon by the court as grounds for a modification or termination of maintenance in any future proceeding unless the physical or mental condition of the party seeking maintenance or the application of subsection 12 or 13 of this section makes the inclusion of such a provision in the order unreasonable or inappropriate.

11. Except as otherwise provided by subsection 12 or 13 of this section, an order awarding maintenance shall be subject to modification, if modifiable, or termination if it can be shown that the recipient and another person are cohabitating or have entered into a mutually supportive relationship that is the functional equivalent of marriage or a committed partnership that has existed for at least twelve months of an eighteen-month period.

12. For purposes of modification of prior orders establishing maintenance, the standards set forth in this section shall be applicable to all initial actions and modifications decided on or after August 28, 2024. Notwithstanding provisions to the contrary contained in this section or section 452.370, either party to any maintenance order entered prior to August 28, 2024, may file a modification under section 452.370 seeking to classify maintenance being paid under an existing maintenance order as bridge, rehabilitative, or durational or to shorten or lengthen the term of maintenance being paid under any such order, provided that the time limits, public policy statements, and other provisions of this section and section 452.370 shall control in all such actions initiated under those sections, including, without limitation, the durational limits on maintenance specified in this section. There shall be a presumption in favor of modifying such existing orders to bring them into conformity with the provisions of this section and section 452.370 and specifically the public policy set forth in this section and section 452.370, and courts shall have the latitude to give credit for maintenance paid under an existing order toward any modified maintenance term entered as part of a modification order.

13. Nothing in this section shall be construed to prohibit parties from reaching an agreement, submitted in writing to the court, regarding the type or duration of modifiable or nonmodifiable maintenance, regardless of whether the duration of maintenance in such agreement exceeds the limits described in this section.

452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, and in accordance with the provisions of section 452.335, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of ~~changed~~

4 ~~circumstances so]~~ substantial and continuing ~~[as to make the terms unreasonable]~~ **changed**
5 **circumstances.** In a proceeding for modification of any child support or maintenance
6 judgment, the court, in determining whether or not ~~[a]~~ substantial ~~[change in]~~ **and continuing**
7 **changed** circumstances ~~[has]~~ **have** occurred, shall consider all financial resources of both
8 parties, including the extent to which the reasonable expenses of either party are, or should
9 be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity
10 of a party who is not employed. If the application of the child support guidelines and criteria
11 set forth in section 452.340 and applicable supreme court rules to the financial circumstances
12 of the parties would result in a change of child support from the existing amount by twenty
13 percent or more, a prima facie showing has been made of ~~[a change of circumstances so]~~
14 substantial and continuing ~~[as to make the present terms unreasonable]~~ **changed**
15 **circumstances**, if the existing amount was based upon the presumed amount pursuant to
16 the child support guidelines.

17 2. When the party seeking modification has met the burden of proof set forth in
18 subsection 1 of this section, the child support shall be determined in conformity with criteria
19 set forth in section 452.340 and applicable supreme court rules.

20 3. Unless otherwise agreed in writing or expressly provided in the judgment, the
21 obligation to pay future statutory maintenance is terminated upon the death of either party
22 ~~[or]~~, the remarriage of the party receiving maintenance, **or if it can be shown that the party**
23 **receiving maintenance and another person are cohabitating or have entered into a**
24 **mutually supportive relationship that is the functional equivalent of marriage or**
25 **committed partnership that has existed for at least twelve months of an eighteen-month**
26 **period.**

27 4. Unless otherwise agreed in writing or expressly provided in the judgment,
28 provisions for the support of a child are terminated by emancipation of the child. The parent
29 entitled to receive child support shall have the duty to notify the parent obligated to pay
30 support of the child's emancipation and failing to do so, the parent entitled to receive child
31 support shall be liable to the parent obligated to pay support for child support paid following
32 emancipation of a minor child, plus interest.

33 5. If a parent has made an assignment of support rights to the family support division
34 on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary
35 Assistance for Needy Families program and either party initiates a motion to modify the
36 support obligation by reducing it, the state of Missouri shall be named as a party to the
37 proceeding. The state shall be served with a copy of the motion by sending it by certified
38 mail to the director of the family support division.

39 6. The court shall have continuing personal jurisdiction over both the obligee and the
40 obligor of a court order for child support or maintenance for the purpose of modifying such

41 order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the
42 support or maintenance order was entered of any change of mailing address. If personal
43 service of the motion cannot be had in this state, the motion to modify and notice of hearing
44 shall be served outside the state as provided by supreme court rule 54.14. The order may be
45 modified only as to support or maintenance installments which accrued subsequent to the date
46 of personal service. For the purpose of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall
47 be considered the appropriate agent to receive notice of the motion to modify for the obligee
48 or the obligor, but only in those instances in which personal service could not be had in this
49 state.

50 7. If a responsive pleading raising the issues of custody or visitation is filed in
51 response to a motion to modify child support filed at the request of the family support
52 division by a prosecuting attorney or circuit attorney or an attorney under contract with the
53 division, such responsive pleading shall be severed upon request.

54 8. Notwithstanding any provision of this section which requires a showing of
55 substantial and continuing ~~[change in]~~ **changed** circumstances, in a IV-D case filed pursuant
56 to this section by the family support division as provided in section 454.400, the court shall
57 modify a support order in accordance with the guidelines and criteria set forth in supreme
58 court rule 88.01 and any regulations thereunder if the amount in the current order differs from
59 the amount which would be ordered in accordance with such guidelines or regulations.

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