

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 568

AN ACT

To repeal sections 210.117, 211.037, 211.038, 452.375, and 452.400, RSMo, and to enact in lieu thereof six new section relating to protection of children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 210.117, 211.037, 211.038, 452.375, and
2 452.400, RSMo, are repealed and six new sections enacted in lieu
3 thereof, to be known as sections 210.114, 210.117, 211.037,
4 211.038, 452.375, and 452.400, to read as follows:
5 210.114. Except as otherwise provided in section 207.085,
6 RSMo, a private contractor, as defined in subdivision (4) of
7 section 210.110, with the children's division that receives state
8 moneys from the division or the department for providing services
9 to children and their families shall have qualified immunity from
10 civil liability for providing such services to the same extent
11 that the children's division has qualified immunity from civil
12 liability when the division or department directly provides such
13 services. This section shall not apply if a private contractor
14 described above purposely, knowingly, and willfully violates a
15 stated or written policy of the division, any rule promulgated by
16 the division, or any state law directly related to the child

1 abuse and neglect activities of the division or any local
2 ordinance relating to the safety condition of the property.

3 210.117. [No] 1. A child taken into the custody of the
4 state shall not be reunited with a parent or placed in a home in
5 which the parent or any person residing in the home has been
6 found guilty of, or pled guilty to, [a felony violation of
7 chapter 566, RSMo, except for section 566.034, RSMo, when a child
8 was the victim, or a violation of section 568.020, 568.045,
9 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo,
10 except for subdivision (1) of subsection 1 of section 568.060,
11 RSMo, when a child was the victim, or an offense committed in
12 another state when a child is the victim, that would be a felony
13 violation of chapter 566, RSMo, except for section 566.034, RSMo,
14 or a violation of section 568.020, 568.045, 568.060, 568.065,
15 568.070, 568.080, 568.090, or 568.175, RSMo, except for
16 subdivision (1) of subsection 1 of section 568.060, RSMo, if
17 committed in Missouri; provided however, nothing in this section
18 shall preclude the division from exercising its discretion
19 regarding the placement of a child in a home in which the parent
20 or any person residing in the home has been found guilty of or
21 pled guilty or nolo contendere to any offense excepted or
22 excluded in this section] any of the following offenses when a
23 child was the victim:

24 (1) A felony violation of section 566.030, 566.032,
25 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070,
26 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
27 566.209, 566.212, or 566.215, RSMo;

28 (2) A violation of section 568.020, RSMo;

1 (3) A violation of subdivision (2) of subsection 1 of
2 section 568.060, RSMo;

3 (4) A violation of section 568.065, RSMo;

4 (5) A violation of section 568.080, RSMo;

5 (6) A violation of section 568.090, RSMo; or

6 (7) A violation of section 568.175, RSMo.

7 2. For all other violations of offenses in chapters 566 and
8 568, RSMo, not specifically listed in subsection 1 of this
9 section or for a violation of an offense committed in another
10 state when a child is the victim that would be a violation of
11 chapter 566 or 568, RSMo, if committed in Missouri, the division
12 may exercise its discretion regarding the placement of a child
13 taken into the custody of the state in which a parent or any
14 person residing in the home has been found guilty of, or pled
15 guilty to, any such offense.

16 211.037. 1. For purposes of proceedings and investigations
17 conducted pursuant to this chapter, children shall be promptly
18 returned to the care and custody of a nonoffending parent
19 entitled to physical custody of the child if:

20 (1) The parents have continuously maintained joint domicile
21 for a period of at least six months prior to the alleged incident
22 or the parents are maintaining separate households; and

23 (2) A preponderance of the evidence indicates that only one
24 of the parents is the subject of an investigation of abuse or
25 neglect; and

26 (3) The nonoffending parent does not have a history of
27 criminal behavior, drug or alcohol abuse, child abuse or child
28 neglect, domestic violence, or stalking[, or full orders of

1 protection entered against them] within the past five years; and

2 (4) The parents are maintaining joint domicile and the
3 offending parent is removed from the home voluntarily or
4 involuntarily, or the parents live separately and the child is
5 removed from the home of the [custodial] offending parent; and

6 (5) A nonoffending parent requests custody of the child and
7 agrees to cooperate with any orders of the court limiting contact
8 or establishing visitation with the offending parent and the
9 nonoffending parent complies with such orders.

10
11 When the parents maintain joint domicile or comply with
12 court-ordered visitation, there shall be a rebuttable presumption
13 that the nonoffending parent has not committed any violation of
14 sections 568.030, 568.032, 568.045, 568.050, or 568.060, RSMo, or
15 has not engaged in any conduct that would constitute child abuse
16 or neglect under chapter 210, RSMo. In order to rebut the
17 presumption there must be a finding of actual harm or
18 endangerment to the child if the child is placed in the custody
19 of the nonoffending parent.

20 2. Nothing in this section shall prevent the division or
21 the court from exercising its discretion to return a child or
22 children to the custody of any individual.

23 211.038. [No] 1. A child under the jurisdiction of the
24 juvenile court shall not be reunited with a parent or placed in a
25 home in which the parent or any person residing in the home has
26 been found guilty of, or pled guilty to, [a felony violation of
27 chapter 566, RSMo, except for section 566.034, RSMo, when a child
28 was the victim, or a violation of sections 568.020, 568.045,

1 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo,
2 except for subdivision (1) of subsection 1 of section 568.060,
3 RSMo, when a child was the victim, or an offense committed in
4 another state when a child is the victim, that would be a felony
5 violation of chapter 566, RSMo, except for section 566.034, RSMo,
6 or a violation of sections 568.020, 568.045, 568.060, 568.065,
7 568.070, 568.080, 568.090, and 568.175, RSMo, except for
8 subdivision (1) of subsection 1 of section 568.060, RSMo, if
9 committed in Missouri; provided however, nothing in this section
10 shall preclude the juvenile court from exercising its discretion
11 regarding the placement of a child in a home in which the parent
12 or any person residing in the home has been found guilty of or
13 pled guilty or nolo contendere to any offense excepted or
14 excluded in this section] any of the following offenses when a
15 child was the victim:

16 (1) A felony violation of section 566.030, 566.032,
17 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070,
18 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
19 566.209, 566.212, or 566.215, RSMo;

20 (2) A violation of section 568.020, RSMo;

21 (3) A violation of subdivision (2) of subsection 1 of
22 section 568.060, RSMo;

23 (4) A violation of section 568.065, RSMo;

24 (5) A violation of section 568.080, RSMo;

25 (6) A violation of section 568.090, RSMo; or

26 (7) A violation of section 568.175, RSMo.

27 2. For all other violations of offenses in chapters 566 and
28 568, RSMo, not specifically listed in subsection 1 of this

1 section or for a violation of an offense committed in another
2 state when a child is the victim that would be a violation of
3 chapter 566 or 568, RSMo, if committed in Missouri, the juvenile
4 court may exercise its discretion regarding the placement of a
5 child under the jurisdiction of the juvenile court in a home in
6 which a parent or any person residing in the home has been found
7 guilty of, or pled guilty to, any such offense.

8 452.375. 1. As used in this chapter, unless the context
9 clearly indicates otherwise:

10 (1) "Custody", means joint legal custody, sole legal
11 custody, joint physical custody or sole physical custody or any
12 combination thereof;

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

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

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

28 2. The court shall determine custody in accordance with the

1 best interests of the child. The court shall consider all
2 relevant factors including:

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

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

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

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

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

17 (6) The mental and physical health of all individuals
18 involved, including any history of abuse of any individuals
19 involved. If the court finds that a pattern of domestic violence
20 has occurred, and, if the court also finds that awarding custody
21 to the abusive parent is in the best interest of the child, then
22 the court shall enter written findings of fact and conclusions of
23 law. Custody and visitation rights shall be ordered in a manner
24 that best protects the child and any other child or children for
25 whom the parent has custodial or visitation rights, and the
26 parent or other family or household member who is the victim of
27 domestic violence from any further harm;

28 (7) The intention of either parent to relocate the

1 principal residence of the child; and

2 (8) The wishes of a child as to the child's custodian.

3
4 The fact that a parent sends his or her child or children to a
5 home school, as defined in section 167.031, RSMo, shall not be
6 the sole factor that a court considers in determining custody of
7 such child or children.

8 3. (1) In any court proceedings relating to custody of a
9 child, the court shall not award custody or unsupervised
10 visitation of a child to a parent if such parent or any person
11 residing with such parent has been found guilty of, or pled
12 guilty to, [a felony violation of chapter 566, RSMo, except for
13 section 566.034, RSMo, when a child was the victim, or a
14 violation of section 568.020, 568.045, 568.060, 568.065, 568.070,
15 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of
16 subsection 1 of section 568.060, RSMo, when a child was the
17 victim, or an offense committed in another state when a child is
18 the victim, that would be a felony violation of chapter 566,
19 RSMo, except for section 566.034, RSMo, or section 568.020,
20 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175,
21 RSMo, except for subdivision (1) of subsection 1 of section
22 568.060, RSMo, if committed in Missouri; provided however,
23 nothing in this subsection shall preclude the court from
24 exercising its discretion regarding the awarding of custody or
25 visitation for a child if the parent or any person residing in
26 the home has been found guilty of or pled guilty or nolo
27 contendere to any offense excepted or excluded in this
28 subsection] any of the following offenses when a child was the

1 victim:

2 (a) A felony violation of section 566.030, 566.032,
3 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070,
4 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
5 566.209, 566.212, or 566.215, RSMo;

6 (b) A violation of section 568.020, RSMo;

7 (c) A violation of subdivision (2) of subsection 1 of
8 section 568.060, RSMo;

9 (d) A violation of section 568.065, RSMo;

10 (e) A violation of section 568.080, RSMo;

11 (f) A violation of section 568.090, RSMo; or

12 (g) A violation of section 568.175, RSMo.

13 (2) For all other violations of offenses in chapters 566
14 and 568, RSMo, not specifically listed in subdivision (1) of this
15 subsection or for a violation of an offense committed in another
16 state when a child is the victim that would be a violation of
17 chapter 566 or 568, RSMo, if committed in Missouri, the court may
18 exercise its discretion in awarding custody or visitation of a
19 child to a parent if such parent or any person residing with such
20 parent has been found guilty of, or pled guilty to, any such
21 offense.

22 4. The general assembly finds and declares that it is the
23 public policy of this state that frequent, continuing and
24 meaningful contact with both parents after the parents have
25 separated or dissolved their marriage is in the best interest of
26 the child, except for cases where the court specifically finds
27 that such contact is not in the best interest of the child, and
28 that it is the public policy of this state to encourage parents

1 to participate in decisions affecting the health, education and
2 welfare of their children, and to resolve disputes involving
3 their children amicably through alternative dispute resolution.
4 In order to effectuate these policies, the court shall determine
5 the custody arrangement which will best assure both parents
6 participate in such decisions and have frequent, continuing and
7 meaningful contact with their children so long as it is in the
8 best interests of the child.

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

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

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

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

23 (4) Sole custody to either parent; or

24 (5) Third-party custody or visitation:

25 (a) When the court finds that each parent is unfit,
26 unsuitable, or unable to be a custodian, or the welfare of the
27 child requires, and it is in the best interests of the child,
28 then custody, temporary custody or visitation may be awarded to

1 any other person or persons deemed by the court to be suitable
2 and able to provide an adequate and stable environment for the
3 child. Before the court awards custody, temporary custody or
4 visitation to a third person under this subdivision, the court
5 shall make that person a party to the action;

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

9 6. If the parties have not agreed to a custodial
10 arrangement, or the court determines such arrangement is not in
11 the best interest of the child, the court shall include a written
12 finding in the judgment or order based on the public policy in
13 subsection 4 of this section and each of the factors listed in
14 subdivisions (1) to (8) of subsection 2 of this section detailing
15 the specific relevant factors that made a particular arrangement
16 in the best interest of the child. If a proposed custodial
17 arrangement is rejected by the court, the court shall include a
18 written finding in the judgment or order detailing the specific
19 relevant factors resulting in the rejection of such arrangement.

20 7. Upon a finding by the court that either parent has
21 refused to exchange information with the other parent, which
22 shall include but not be limited to information concerning the
23 health, education and welfare of the child, the court shall order
24 the parent to comply immediately and to pay the prevailing party
25 a sum equal to the prevailing party's cost associated with
26 obtaining the requested information, which shall include but not
27 be limited to reasonable attorney's fees and court costs.

28 8. As between the parents of a child, no preference may be

1 given to either parent in the awarding of custody because of that
2 parent's age, sex, or financial status, nor because of the age or
3 sex of the child.

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

12 10. Unless a parent has been denied custody rights pursuant
13 to this section or visitation rights under section 452.400, both
14 parents shall have access to records and information pertaining
15 to a minor child, including, but not limited to, medical, dental,
16 and school records. If the parent without custody has been
17 granted restricted or supervised visitation because the court has
18 found that the parent with custody or any child has been the
19 victim of domestic violence, as defined in section 455.200, RSMo,
20 by the parent without custody, the court may order that the
21 reports and records made available pursuant to this subsection
22 not include the address of the parent with custody or the child.
23 Unless a parent has been denied custody rights pursuant to this
24 section or visitation rights under section 452.400, any judgment
25 of dissolution or other applicable court order shall specifically
26 allow both parents access to such records and reports.

27 11. Except as otherwise precluded by state or federal law,
28 if any individual, professional, public or private institution or

1 organization denies access or fails to provide or disclose any
2 and all records and information, including, but not limited to,
3 past and present dental, medical and school records pertaining to
4 a minor child, to either parent upon the written request of such
5 parent, the court shall, upon its finding that the individual,
6 professional, public or private institution or organization
7 denied such request without good cause, order that party to
8 comply immediately with such request and to pay to the prevailing
9 party all costs incurred, including, but not limited to,
10 attorney's fees and court costs associated with obtaining the
11 requested information.

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

17 13. If the court finds that domestic violence or abuse, as
18 defined in sections 455.010 and 455.501, RSMo, has occurred, the
19 court shall make specific findings of fact to show that the
20 custody or visitation arrangement ordered by the court best
21 protects the child and the parent or other family or household
22 member who is the victim of domestic violence or abuse, as
23 defined in sections 455.010 and 455.501, RSMo, and any other
24 children for whom such parent has custodial or visitation rights
25 from any further harm.

26 452.400. 1. (1) A parent not granted custody of the child
27 is entitled to reasonable visitation rights unless the court
28 finds, after a hearing, that visitation would endanger the

1 child's physical health or impair his or her emotional
2 development. The court shall enter an order specifically
3 detailing the visitation rights of the parent without physical
4 custody rights to the child and any other children for whom such
5 parent has custodial or visitation rights. In determining the
6 granting of visitation rights, the court shall consider evidence
7 of domestic violence. If the court finds that domestic violence
8 has occurred, the court may find that granting visitation to the
9 abusive party is in the best interests of the child.

10 (2) (a) The court shall not grant visitation to the parent
11 not granted custody if such parent or any person residing with
12 such parent has been found guilty of or pled guilty to [a felony
13 violation of chapter 566, RSMo, except for section 566.034, RSMo,
14 when a child was the victim, or a violation of section 568.020,
15 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175,
16 RSMo, except for subdivision (1) of subsection 1 of section
17 568.060, RSMo, when a child was the victim, or an offense
18 committed in another state when a child is the victim, that would
19 be a felony violation of chapter 566, RSMo, except for section
20 566.034, RSMo, or section 568.020, 568.045, 568.060, 568.065,
21 568.070, 568.080, 568.090, or 568.175, RSMo, except for
22 subdivision (1) of subsection 1 of section 568.060, RSMo, if
23 committed in Missouri; provided however, nothing in this
24 subsection shall preclude the court from exercising its
25 discretion regarding the awarding of custody or visitation for a
26 child if the parent or any person residing in the home has been
27 found guilty of or pled guilty or nolo contendere to any offense
28 excepted or excluded in this subsection] any of the following

1 offenses when a child was the victim:

2 a. A felony violation of section 566.030, 566.032, 566.040,
3 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083,
4 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209,
5 566.212, or 566.215, RSMo;

6 b. A violation of section 568.020, RSMo;

7 c. A violation of subdivision (2) of subsection 1 of
8 section 568.060, RSMo;

9 d. A violation of section 568.065, RSMo;

10 e. A violation of section 568.080, RSMo;

11 f. A violation of section 568.090, RSMo; or

12 g. A violation of section 568.175, RSMo.

13 (b) For all other violations of offenses in chapters 566
14 and 568, RSMo, not specifically listed in paragraph (a) of this
15 subdivision or for a violation of an offense committed in another
16 state when a child is the victim that would be a violation of
17 chapter 566 or 568, RSMo, if committed in Missouri, the court may
18 exercise its discretion in granting visitation to a parent not
19 granted custody if such parent or any person residing with such
20 parent has been found guilty of, or pled guilty to, any such
21 offense.

22 (3) The court shall consider the parent's history of
23 inflicting, or tendency to inflict, physical harm, bodily injury,
24 assault, or the fear of physical harm, bodily injury, or assault
25 on other persons and shall grant visitation in a manner that best
26 protects the child and the parent or other family or household
27 member who is the victim of domestic violence, and any other
28 children for whom the parent has custodial or visitation rights

1 from any further harm.

2 (4) The court, if requested by a party, shall make specific
3 findings of fact to show that the visitation arrangements made by
4 the court best protect the child or the parent or other family or
5 household member who is the victim of domestic violence, or any
6 other child for whom the parent has custodial or visitation
7 rights from any further harm.

8 2. (1) The court may modify an order granting or denying
9 visitation rights whenever modification would serve the best
10 interests of the child, but the court shall not restrict a
11 parent's visitation rights unless it finds that the visitation
12 would endanger the child's physical health or impair his or her
13 emotional development.

14 (2) (a) In any proceeding modifying visitation rights, the
15 court shall not grant unsupervised visitation to a parent if the
16 parent or any person residing with such parent has been found
17 guilty of or pled guilty to [a felony violation of chapter 566,
18 RSMo, except for section 566.034, RSMo, when a child was the
19 victim, or a violation of sections 568.020, 568.045, 568.060,
20 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for
21 subdivision (1) of subsection 1 of section 568.060, RSMo, when a
22 child was the victim, or an offense committed in another state
23 when a child is the victim, that would be a felony violation of
24 chapter 566, RSMo, except for section 566.034, RSMo, or a
25 violation of sections 568.020, 568.045, 568.060, 568.065,
26 568.070, 568.080, 568.090, and 568.175, RSMo, except for
27 subdivision (1) of subsection 1 of section 568.060, RSMo, if
28 committed in Missouri; provided however, nothing in this

1 subsection shall preclude the court from exercising its
2 discretion regarding the placement of a child in a home in which
3 the parent or any person residing in the home has been found
4 guilty of or pled guilty or nolo contendere to any offense
5 excepted or excluded in this subsection] any of the following
6 offenses when a child was the victim:

7 a. A felony violation of section 566.030, 566.032, 566.040,
8 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083,
9 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209,
10 566.212, or 566.215, RSMo;

11 b. A violation of section 568.020, RSMo;

12 c. A violation of subdivision (2) of subsection 1 of
13 section 568.060, RSMo;

14 d. A violation of section 568.065, RSMo;

15 e. A violation of section 568.080, RSMo;

16 f. A violation of section 568.090, RSMo; or

17 g. A violation of section 568.175, RSMo.

18 (b) For all other violations of offenses in chapters 566
19 and 568, RSMo, not specifically listed in paragraph (a) of this
20 subdivision or for a violation of an offense committed in another
21 state when a child is the victim that would be a violation of
22 chapter 566 or 568, RSMo, if committed in Missouri, the division
23 may exercise its discretion regarding the placement of a child
24 taken into the custody of the state in which a parent or any
25 person residing in the home has been found guilty of, or pled
26 guilty to, any such offense.

27 (3) When a court restricts a parent's visitation rights or
28 when a court orders supervised visitation because of allegations

1 of abuse or domestic violence, a showing of proof of treatment
2 and rehabilitation shall be made to the court before unsupervised
3 visitation may be ordered. "Supervised visitation", as used in
4 this section, is visitation which takes place in the presence of
5 a responsible adult appointed by the court for the protection of
6 the child.

7 3. The court shall mandate compliance with its order by all
8 parties to the action, including parents, children and third
9 parties. In the event of noncompliance, the aggrieved person may
10 file a verified motion for contempt. If custody, visitation or
11 third-party custody is denied or interfered with by a parent or
12 third party without good cause, the aggrieved person may file a
13 family access motion with the court stating the specific facts
14 which constitute a violation of the judgment of dissolution or
15 legal separation. The state courts administrator shall develop a
16 simple form for pro se motions to the aggrieved person, which
17 shall be provided to the person by the circuit clerk. Clerks,
18 under the supervision of a circuit clerk, shall explain to
19 aggrieved parties the procedures for filing the form. Notice of
20 the fact that clerks will provide such assistance shall be
21 conspicuously posted in the clerk's offices. The location of the
22 office where the family access motion may be filed shall be
23 conspicuously posted in the court building. The performance of
24 duties described in this section shall not constitute the
25 practice of law as defined in section 484.010, RSMo. Such form
26 for pro se motions shall not require the assistance of legal
27 counsel to prepare and file. The cost of filing the motion shall
28 be the standard court costs otherwise due for instituting a civil

1 action in the circuit court.

2 4. Within five court days after the filing of the family
3 access motion pursuant to subsection 3 of this section, the clerk
4 of the court shall issue a summons pursuant to applicable state
5 law, and applicable local or supreme court rules. A copy of the
6 motion shall be personally served upon the respondent by personal
7 process server as provided by law or by any sheriff. Such
8 service shall be served at the earliest time and shall take
9 priority over service in other civil actions, except those of an
10 emergency nature or those filed pursuant to chapter 455, RSMo.
11 The motion shall contain the following statement in boldface
12 type:

13
14 "PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND
15 TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE.
16 FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE
17 FOLLOWING:

18 (1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY,
19 VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE
20 AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

21 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE
22 THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A
23 CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

24 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS
25 AGAINST THE VIOLATOR;

26 (4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO
27 ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

28 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO

1 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED
2 PARTY AND THE CHILD; AND

3 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE
4 EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY
5 INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF
6 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

7 5. If an alternative dispute resolution program is
8 available pursuant to section 452.372, the clerk shall also
9 provide information to all parties on the availability of any
10 such services, and within fourteen days of the date of service,
11 the court may schedule alternative dispute resolution.

12 6. Upon a finding by the court pursuant to a motion for a
13 family access order or a motion for contempt that its order for
14 custody, visitation or third-party custody has not been complied
15 with, without good cause, the court shall order a remedy, which
16 may include, but not be limited to:

17 (1) A compensatory period of visitation, custody or
18 third-party custody at a time convenient for the aggrieved party
19 not less than the period of time denied;

20 (2) Participation by the violator in counseling to educate
21 the violator about the importance of providing the child with a
22 continuing and meaningful relationship with both parents;

23 (3) Assessment of a fine of up to five hundred dollars
24 against the violator payable to the aggrieved party;

25 (4) Requiring the violator to post bond or security to
26 ensure future compliance with the court's access orders; and

27 (5) Ordering the violator to pay the cost of counseling to
28 reestablish the parent-child relationship between the aggrieved

1 party and the child.

2 7. The reasonable expenses incurred as a result of denial
3 or interference with custody or visitation, including attorney's
4 fees and costs of a proceeding to enforce visitation rights,
5 custody or third-party custody, shall be assessed, if requested
6 and for good cause, against the parent or party who unreasonably
7 denies or interferes with visitation, custody or third-party
8 custody. In addition, the court may utilize any and all powers
9 relating to contempt conferred on it by law or rule of the
10 Missouri supreme court.

11 8. Final disposition of a motion for a family access order
12 filed pursuant to this section shall take place not more than
13 sixty days after the service of such motion, unless waived by the
14 parties or determined to be in the best interest of the child.
15 Final disposition shall not include appellate review.

16 9. Motions filed pursuant to this section shall not be
17 deemed an independent civil action from the original action
18 pursuant to which the judgment or order sought to be enforced was
19 entered.

20