

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 739, Page 1, Section A, Line 2, by
2 inserting after all of said section and line the following:

3
4 “452.398. 1. It is the goal of this section to protect the psychological, emotional, and
5 physical well-being of Missouri children by ensuring continuing interaction between a minor child
6 and those persons with whom the minor child shares a substantial bond regardless of such person's
7 biological connection to the minor child. Nothing in this section shall be construed or is intended
8 to affect the procedure for termination of parental rights under chapter 211. Nothing in this section
9 shall be construed or intended to revive the rights of a natural parent whose rights have previously
10 been terminated under chapter 211.

11 2. As used in this section, the following terms shall mean:

12 (1) "Detrimental impact to the minor child", includes but is not limited to circumstances
13 that may cause psychological, emotional, or physical harm to a minor child;

14 (2) "Natural parent", a biological or legal parent whose rights have not been terminated;

15 (3) "Ongoing relationship", a parent/child relationship with substantial continuity that has
16 existed or did exist for at least one year;

17 (4) "Parent/child relationship", a relationship that exists or did exist between a minor child
18 and a person other than a natural parent in which the person claiming such relationship has:

19 (a) Performed the duties of a parent and provided for the minor child's basic physical
20 needs for food, clothing, shelter, and incidental necessities; and

21 (b) Provided the minor child with necessary care, education, structure, and discipline; and

22 (c) Developed and sustained a relationship with the minor child through interaction,
23 companionship, interplay, and mutuality that fulfilled the minor child's psychological and
24 emotional needs.

25 3. Any person who has a parent/child relationship with a minor child and who is not the
26 minor child's natural parent may petition a court of competent jurisdiction under section 452.740
27 either by independent petition or by intervention in a pending action, including but not limited to
28 an action pending in the juvenile division of a circuit court, to enter a judgment establishing
29 custody and visitation rights to sustain and protect an ongoing relationship with the minor child.

1 An action under this section may be filed only if:

2 (1) At least one of the natural parents is deceased; or

3 (2) At least one of the natural parents is unknown; or

4 (3) The whereabouts of at least one of the natural parents is unknown and unascertainable
5 for a period of one year; or

6 (4) The parental rights of at least one biological parent have been terminated; or

7 (5) The remaining parent has not had an ongoing parent/child relationship with the minor
8 child in question for a period of one year prior to the filing of a petition under this section.

9 4. To qualify under this section, the petitioner or intervenor:

10 (1) Is or was married to the minor child's natural parent;

11 (2) Is or was named on the birth certificate of the minor child at some point during the
12 minor child's life and the parental rights have not previously been terminated under sections
13 211.442 to 211.490; or

14 (3) Materially relied upon a natural parent's representation that the petitioner or intervenor
15 was or could be the minor child's natural parent.

16 5. The petitioner or intervenor shall establish by a preponderance of the evidence that an
17 ongoing parent/child relationship exists or did exist. In determining whether such a relationship
18 exists or did exist, the court shall consider all relevant factors, including:

19 (1) The age of the minor child;

20 (2) The minor child's mental and emotional maturity;

21 (3) Whether the minor child holds or did in the past hold a belief that the petitioner or
22 intervenor is his or her parent;

23 (4) The duration and extent of the minor child's interaction with the petitioner or
24 intervenor prior to the filing of the petitioner's or intervenor's action;

25 (5) Whether a natural parent fostered, condoned, or promoted the relationship between the
26 minor child and the petitioner or intervenor;

27 (6) The extent to which the petitioner or intervenor has provided for the minor child's
28 support, health, education, and welfare;

29 (7) The extent to which the petitioner or intervenor has performed the role of parent;

30 (8) The extent to which the petitioner or intervenor has fulfilled the minor child's
31 psychological needs for a parent;

32 (9) Whether the petitioner or intervenor, the natural parent, and the minor child interacted
33 with their community and third parties as a family.

34 6. In any proceeding initiated under this section, there is a rebuttable presumption that the
35 natural parent acts in the minor child's best interests. In determining whether the presumption has
36 been rebutted and whether to award custody or visitation rights over the objection of a natural

1 parent, the court shall consider the psychological injury to the child resulting from a
2 discontinuation of the relationship between the child and petitioner or intervenor and may
3 consider factors including, but not limited to:

4 (1) Whether the petitioner or intervenor is or has been a primary caretaker of the minor
5 child;

6 (2) Whether the natural parent has fostered, condoned, or promoted the relationship
7 between the minor child and the petitioner or intervenor;

8 (3) The duration and extent of the minor child's interaction with the petitioner or
9 intervenor prior to the filing of the petitioner's or intervenor's action;

10 (4) The extent to which the petitioner or intervenor has provided for the minor child's
11 support, health, education, and welfare;

12 (5) The extent to which the petitioner or intervenor has performed the role of parent;

13 (6) The extent to which the petitioner or intervenor has fulfilled the minor child's
14 psychological needs for a parent;

15 (7) Whether the natural parent has unreasonably denied or limited contact between the
16 minor child and the petitioner or intervenor;

17 (8) Whether the natural parent is unwilling or unable to adequately care for the minor
18 child;

19 (9) The character, background, and parenting abilities of the parties.

20 7. If the court determines that a parent/child relationship exists and the parental
21 presumption in subsection 6 of this section has been rebutted by a preponderance of the evidence,
22 the court may grant visitation rights to the petitioner or intervenor in order to maintain a
23 meaningful and continuing relationship with the minor child, if to do so is in the best interests of
24 the child. The court may determine temporary custody or temporary visitation during the
25 pendency of any proceeding pending entry of a final order.

26 8. If the court determines that a parent/child relationship exists or did exist and the
27 parental presumption in subsection 6 of this section has been rebutted by clear and convincing
28 evidence, the court may grant custody or visitation rights to the petitioner or intervenor in order to
29 maintain a meaningful and continuing relationship with the minor child, if to do so is in the best
30 interests of the child and the court finds that:

31 (1) The natural parent is unfit, unsuitable, or unable to be a custodian; or

32 (2) The welfare of the child requires the granting of such rights; or

33 (3) The natural parent is listed in the central registry, as defined in section 210.110.

34
35 The court may order temporary visitation or contact rights under this subsection pending a final
36 order.

1 9. If the court determines that custody or visitation between the minor child and the
2 petitioner or intervenor is appropriate, the court may establish a parenting plan in accordance with
3 subsection 8 of section 452.310 after consideration of the provisions of section 452.375, including
4 an obligation of support pursuant to section 452.340.

5 10. The presumption described in subsection 6 of this section shall not exist in any action
6 for modification of a judgment granted under this section.

7 11. The custody and visitation provisions of this section shall apply only to periods of
8 visitation or custody accruing subsequent to the filing of a petition under this section. This
9 subsection shall not, however, limit the court's ability to consider evidence of past circumstances
10 of the parties and the child, or to find that a parent/child relationship exists or existed prior to the
11 effective date of this section.

12 12. Notice of any action under this section shall be given in a manner prescribed by law to
13 the natural parent or parents, to any person who has custody of the minor child in question, and to
14 any person the petitioner or intervenor knows would qualify under subsection 4 of this section.

15 13. If a military parent is required to be separated from a child due to deployment, a court
16 shall not enter a final order under this section until ninety days after the deployment ends.
17 Deployment or the potential for future deployment of a military parent shall not constitute grounds
18 sufficient to support a custody or visitation order under this section.

19 14. If a parent is required to be separated from a child due to employment, and the parent
20 supports the child on an ongoing basis, such separation shall not constitute grounds sufficient to
21 support a custody or visitation order under this section.”; and

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.