

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 774, Page 66, Section 441.231, Line 2, by  
2 inserting after said section and line the following:

3  
4 "452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

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

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

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

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

17 2. The court shall determine custody in accordance with the best interests of the child.

18 There shall be a rebuttable presumption that an award of equal or approximately equal parenting  
19 time to each parent is in the best interests of the child. Such presumption is rebuttable only by a  
20 preponderance of the evidence in accordance with all relevant factors including, but not limited to,  
21 the factors contained in subdivisions (1) to (8) of this subsection. The presumption may also be  
22 rebutted if the court finds that the parents have reached an agreement on all issues related to custody,  
23 or if the court finds that a pattern of domestic violence has occurred as set out in subdivision (6) of  
24 this subsection. When the parties have not reached an agreement on all issues related to custody, the  
25 court shall consider all relevant factors and enter written findings of fact and conclusions of law,  
26 including, but not limited to, the following:

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

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

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

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

36 (5) The child's adjustment to ~~the~~ his or her home ~~;~~ or the child's proximity to his or her

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 school[;] and community;

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

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

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

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

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

21 (b) A violation of section 568.020;

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

23 (d) A violation of section 568.065;

24 (e) A violation of section 573.200;

25 (f) A violation of section 573.205; or

26 (g) A violation of section 568.175.

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

33 4. The general assembly finds and declares that it is the public policy of this state that  
34 frequent, continuing and meaningful contact with both parents after the parents have separated or  
35 dissolved their marriage is in the best interest of the child, except for cases where the court  
36 specifically finds that such contact is not in the best interest of the child, and that it is the public  
37 policy of this state to encourage parents to participate in decisions affecting the health, education  
38 and welfare of their children, and to resolve disputes involving their children amicably through  
39 alternative dispute resolution. In order to effectuate these policies, the general assembly encourages  
40 the court to enter a temporary parenting plan as early as practicable in a proceeding under this  
41 chapter, consistent with the provisions of subsection 2 of this section, and, in so doing, the court  
42 shall determine the custody arrangement which will best assure both parents participate in such  
43 decisions and have frequent, continuing and meaningful contact with their children so long as it is in  
44 the best interests of the child.

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

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

1 purposes;

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

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

5 (4) Sole custody to either parent; or

6 (5) Third-party custody or visitation:

7 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or  
8 the welfare of the child requires, and it is in the best interests of the child, then custody, temporary  
9 custody or visitation may be awarded to any other person or persons deemed by the court to be  
10 suitable and able to provide an adequate and stable environment for the child. Before the court  
11 awards custody, temporary custody or visitation to a third person under this subdivision, the court  
12 shall make that person a party to the action;

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

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

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

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

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

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

46 11. No court shall adopt any local rule, form, or practice requiring a standardized or default  
47 parenting plan for interim, temporary, or permanent orders or judgments. Notwithstanding any other  
48 provision of law to the contrary, a court may enter an interim order in a proceeding under this  
49 chapter, provided that the interim order shall not contain any provisions about child custody or a

1 parenting schedule or plan without first providing the parties with notice and a hearing, unless the  
2 parties otherwise agree.

3 12. Unless a parent has been denied custody rights pursuant to this section or visitation  
4 rights under section 452.400, both parents shall have access to records and information pertaining to  
5 a minor child including, but not limited to, medical, dental, and school records. If the parent  
6 without custody has been granted restricted or supervised visitation because the court has found that  
7 the parent with custody or any child has been the victim of domestic violence, as defined in section  
8 455.010, by the parent without custody, the court may order that the reports and records made  
9 available pursuant to this subsection not include the address of the parent with custody or the child.  
10 A court shall order that the reports and records made available under this subsection not include the  
11 address of the parent with custody if the parent with custody is a participant in the address  
12 confidentiality program under section 589.663. Unless a parent has been denied custody rights  
13 pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or  
14 other applicable court order shall specifically allow both parents access to such records and reports.

15 13. Except as otherwise precluded by state or federal law, if any individual, professional,  
16 public or private institution or organization denies access or fails to provide or disclose any and all  
17 records and information, including, but not limited to, past and present dental, medical and school  
18 records pertaining to a minor child, to either parent upon the written request of such parent, the court  
19 shall, upon its finding that the individual, professional, public or private institution or organization  
20 denied such request without good cause, order that party to comply immediately with such request  
21 and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and  
22 court costs associated with obtaining the requested information.

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

27 15. If the court finds that domestic violence or abuse as defined in section 455.010 has  
28 occurred, the court shall make specific findings of fact to show that the custody or visitation  
29 arrangement ordered by the court best protects the child and the parent or other family or household  
30 member who is the victim of domestic violence, as defined in section 455.010, and any other  
31 children for whom such parent has custodial or visitation rights from any further harm."; and  
32

33 Further amend said bill by amending the title, enacting clause, and intersectional references  
34 accordingly.