SECOND REGULAR SESSION

SENATE BILL NO. 1144

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time February 28, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5335S.01I

AN ACT

To repeal section 211.093, RSMo, and to enact in lieu thereof one new section relating to orders issued by a juvenile court.

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

Section A. Section 211.093, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 211.093, to read as follows:

211.093. **1. Except as otherwise provided in this section,** any order
2 or judgment entered by the court under authority of this chapter or chapter 210,
3 RSMo, shall, so long as such order or judgment remains in effect, take precedence
4 over any order or judgment concerning the status or custody of a child under age
5 twenty-one entered by a court under authority of chapter 452, 453, 454 or 455,
6 RSMo, but only to the extent inconsistent therewith.

7 **2. At any time after the filing of a petition under section 211.031,**
8 **and after notice and hearing, the juvenile court may, upon its own**
9 **motion or upon motion by any party, enter a temporary custody,**
10 **visitation, and child support order and transfer jurisdiction over the**
11 **cause to the circuit court of the county of appropriate venue or to the**
12 **probate court of appropriate venue for the purposes of:**

13 **(1) Entry of a final order or judgment of custody, visitation, and**
14 **child support or entry of an order of legal guardianship, if no such**
15 **order or judgment has been entered with respect to the child; or**

16 **(2) Entry of a final order or judgment modifying a previously**
17 **entered order or judgment of custody, visitation, and child support, or**
18 **legal guardianship.**

19 **3. The juvenile court only may enter an order under subsection**
20 **2 of this section if the juvenile court makes a finding on the record that**

21   the best interest and welfare of the child shall be served by entering

22   such an order in light of all of the circumstances. In making such an

23   order, the juvenile court may place the child as follows:

24   (1) In the temporary legal and physical custody of one or both of

25   the legal parents or legal guardians of the child; or

26   (2) If the juvenile court finds that both of the parents, or the

27   legal guardian, are unfit, unsuitable, or unable to be the custodian of

28   the child, the court may place the child in the legal and physical

29   custody of a fit and willing relative of the child who the court

30   determines is an appropriate person to exercise custody of the child

31   under subdivision (5) of subsection 5 of section 452.375, RSMo, or

32   guardianship of the child under chapter 475, RSMo; or

33   (3) If the juvenile court finds that both of the parents, or the

34   legal guardian, are unfit, unwilling, or unable to be the custodian of the

35   child, and there is no fit and willing relative of the child willing to

36   exercise custody or guardianship of the child, the court may place the

37   child in the legal and physical custody of an appropriate person over

38   the age of twenty-one who the court determines is an appropriate

39   person to exercise custody of the child under subdivision (5) of

40   subsection 5 of section 452.375, RSMo, or guardianship of the child

41   under chapter 475, RSMo.

42   4. Upon the entry of a temporary order under subsection 2 of this

43   section, the clerk of the juvenile court shall transfer a certified copy of

44   the juvenile court's order, and the clerk of the recipient court

45   immediately shall cause the order to be filed either:

46   (1) As a new case in the case of a child where there is no prior

47   order of custody or guardianship, or if the only prior custody order is

48   an order entered under chapter 455, RSMo,; or

49   (2) If there already is a judgment or order of custody or

50   guardianship on record in the recipient court, the clerk of the recipient

51   court shall file the juvenile court's order in the case file in which the

52   prior order was entered. However, temporary orders under this section

53   shall not be filed in actions brought under chapter 455, RSMo.

54   Upon filing of the temporary order in the recipient court, the

55   jurisdiction of the sending juvenile court automatically shall terminate

56   by operation of law, and the jurisdiction of the recipient court

57   immediately shall attach. The temporary order shall be entered in the

58   record of the recipient court and shall have the full force and effect of

59   an order of the recipient court. The temporary order shall remain in

60   full force and effect unless modified by the recipient court after notice

61   and hearing, as provided in this section. The filing of a temporary

62   order under this section in an action in which there is a previous order

63   of custody, visitation, support, or guardianship of a child may be

64   treated as a motion to modify such previous order.

65   5. The recipient court shall not charge any filing fees for filing

66   the temporary order of the juvenile court under this section. Upon

67   filing of the juvenile court's temporary order, the clerk of the recipient

68   court shall:

69   (1) Notify the sending juvenile court of the time and date that

70   the order was filed with the recipient court; and

71   (2) Notify all parties to the action.

72   6. The temporary order shall become a final judgment of the

73   recipient court superseding all inconsistent prior orders sixty days

74   after jurisdiction of the recipient court attaches unless:

75   (1) A party to the case in the recipient court files a motion and

76   objections with the recipient court requesting modification of the

77   temporary order or other appropriate relief; or

78   (2) If the recipient court, on its own motion, sets the cause for

79   hearing.

80   All findings of fact and conclusions of law entered by the juvenile court

81   shall be res judicata in any proceeding filed in the recipient court

82   under this section as to any person who was a party to the juvenile

83   court proceedings. If the case is transferred to the recipient court for

84   a guardianship, the recipient court shall issue letters of guardian to the

85   guardian within ten days of the judgment becoming final in the manner

86   provided by law.

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