

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend Senate Bill No. 213, Page 1, Section TITLE, Line 3,

2 by striking "in paternity actions"; and

3 Further amend said bill, page 3, section 210.841, line
4 64, by inserting after all of said line the following:

5 "452.375. 1. As used in this chapter, unless the
6 context clearly indicates otherwise:

7 (1) "Custody" means joint legal custody, sole legal
8 custody, joint physical custody or sole physical custody or
9 any combination thereof;

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

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

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

26 2. The court shall determine custody in accordance
27 with the best interests of the child. There shall be a
28 rebuttable presumption that an award of equal or
29 approximately equal parenting time to each parent is in the
30 best interests of the child. Such presumption is rebuttable
31 only by a preponderance of the evidence in accordance with
32 all relevant factors, including, but not limited to, the
33 factors contained in subdivisions (1) to (8) of this
34 subsection. The presumption may be rebutted if the court
35 finds that the parents have reached an agreement on all
36 issues related to custody, or if the court finds that a
37 pattern of domestic violence has occurred as set out in
38 subdivision (6) of this subsection. When the parties have
39 not reached an agreement on all issues related to custody,
40 the court shall consider all relevant factors and enter
41 written findings of fact and conclusions of law, including,
42 but not limited to, the following:

- 43 (1) The wishes of the child's parents as to custody
44 and the proposed parenting plan submitted by both parties;
- 45 (2) The needs of the child for a frequent, continuing
46 and meaningful relationship with both parents and the
47 ability and willingness of parents to actively perform their
48 functions as mother and father for the needs of the child;
- 49 (3) The interaction and interrelationship of the child
50 with parents, siblings, and any other person who may
51 significantly affect the child's best interests;
- 52 (4) Which parent is more likely to allow the child
53 frequent, continuing and meaningful contact with the other
54 parent;
- 55 (5) The child's adjustment to the child's home,
56 school, and community. The fact that a parent sends his or
57 her child or children to a home school, as defined in

58 section 167.031, shall not be the sole factor that a court
59 considers in determining custody of such child or children;

60 (6) The mental and physical health of all individuals
61 involved, including any history of abuse of any individuals
62 involved. If the court finds that a pattern of domestic
63 violence as defined in section 455.010 has occurred, and, if
64 the court also finds that awarding custody to the abusive
65 parent is in the best interest of the child, then the court
66 shall enter written findings of fact and conclusions of
67 law. Custody and visitation rights shall be ordered in a
68 manner that best protects the child and any other child or
69 children for whom the parent has custodial or visitation
70 rights, and the parent or other family or household member
71 who is the victim of domestic violence from any further harm;

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

74 (8) The [wishes] unobstructed input of a child, free
75 of coercion and manipulation, as to the child's [custodian]
76 custodial arrangement. [The fact that a parent sends his or
77 her child or children to a home school, as defined in
78 section 167.031, shall not be the sole factor that a court
79 considers in determining custody of such child or children.]

80 3. (1) In any court proceedings relating to custody
81 of a child, the court shall not award custody or
82 unsupervised visitation of a child to a parent if such
83 parent or any person residing with such parent has been
84 found guilty of, or pled guilty to, any of the following
85 offenses when a child was the victim:

86 (a) A felony violation of section 566.030, 566.031,
87 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,
88 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,
89 566.203, 566.206, 566.209, 566.211, or 566.215;

90 (b) A violation of section 568.020;

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

93 (d) A violation of section 568.065;

94 (e) A violation of section 573.200;

95 (f) A violation of section 573.205; or

96 (g) A violation of section 568.175.

97 (2) For all other violations of offenses in chapters
98 566 and 568 not specifically listed in subdivision (1) of
99 this subsection or for a violation of an offense committed
100 in another state when a child is the victim that would be a
101 violation of chapter 566 or 568 if committed in Missouri,
102 the court may exercise its discretion in awarding custody or
103 visitation of a child to a parent if such parent or any
104 person residing with such parent has been found guilty of,
105 or pled guilty to, any such offense.

106 4. The general assembly finds and declares that it is
107 the public policy of this state that frequent, continuing
108 and meaningful contact with both parents after the parents
109 have separated or dissolved their marriage is in the best
110 interest of the child, except for cases where the court
111 specifically finds that such contact is not in the best
112 interest of the child, and that it is the public policy of
113 this state to encourage parents to participate in decisions
114 affecting the health, education and welfare of their
115 children, and to resolve disputes involving their children
116 amicably through alternative dispute resolution. In order
117 to effectuate these policies, the general assembly
118 encourages the court to enter a temporary parenting plan as
119 early as practicable in a proceeding under this chapter,
120 consistent with the provisions of subsection 2 of this
121 section, and, in so doing, the court shall determine the
122 custody arrangement which will best assure both parents
123 participate in such decisions and have frequent, continuing

124 and meaningful contact with their children so long as it is
125 in the best interests of the child.

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

129 (1) Joint physical and joint legal custody to both
130 parents, which shall not be denied solely for the reason
131 that one parent opposes a joint physical and joint legal
132 custody award. The residence of one of the parents shall be
133 designated as the address of the child for mailing and
134 educational purposes;

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

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

141 (4) Sole custody to either parent; or

142 (5) Third-party custody or visitation:

143 (a) When the court finds that each parent is unfit,
144 unsuitable, or unable to be a custodian, or the welfare of
145 the child requires, and it is in the best interests of the
146 child, then custody, temporary custody or visitation may be
147 awarded to a person related by consanguinity or affinity to
148 the child. If no person related to the child by
149 consanguinity or affinity is willing to accept custody, then
150 the court may award custody to any other person or persons
151 deemed by the court to be suitable and able to provide an
152 adequate and stable environment for the child. Before the
153 court awards custody, temporary custody or visitation to a
154 third person under this subdivision, the court shall make
155 that person a party to the action;

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

159 6. If the parties have not agreed to a custodial
160 arrangement, or the court determines such arrangement is not
161 in the best interest of the child, the court shall include a
162 written finding in the judgment or order based on the public
163 policy in subsection 4 of this section and each of the
164 factors listed in subdivisions (1) to (8) of subsection 2 of
165 this section detailing the specific relevant factors that
166 made a particular arrangement in the best interest of the
167 child. If a proposed custodial arrangement is rejected by
168 the court, the court shall include a written finding in the
169 judgment or order detailing the specific relevant factors
170 resulting in the rejection of such arrangement.

171 7. Upon a finding by the court that either parent has
172 refused to exchange information with the other parent, which
173 shall include but not be limited to information concerning
174 the health, education and welfare of the child, the court
175 shall order the parent to comply immediately and to pay the
176 prevailing party a sum equal to the prevailing party's cost
177 associated with obtaining the requested information, which
178 shall include but not be limited to reasonable attorney's
179 fees and court costs.

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

187 9. Any judgment providing for custody shall include a
188 specific written parenting plan setting forth the terms of

189 such parenting plan arrangements specified in subsection 8
190 of section 452.310. Such plan may be a parenting plan
191 submitted by the parties pursuant to section 452.310 or, in
192 the absence thereof, a plan determined by the court, but in
193 all cases, the custody plan approved and ordered by the
194 court shall be in the court's discretion and shall be in the
195 best interest of the child.

196 10. After August 28, 2016, every court order
197 establishing or modifying custody or visitation shall
198 include the following language: "In the event of
199 noncompliance with this order, the aggrieved party may file
200 a verified motion for contempt. If custody, visitation, or
201 third-party custody is denied or interfered with by a parent
202 or third party without good cause, the aggrieved person may
203 file a family access motion with the court stating the
204 specific facts that constitute a violation of the custody
205 provisions of the judgment of dissolution, legal separation,
206 or judgment of paternity. The circuit clerk will provide
207 the aggrieved party with an explanation of the procedures
208 for filing a family access motion and a simple form for use
209 in filing the family access motion. A family access motion
210 does not require the assistance of legal counsel to prepare
211 and file."

212 11. No court shall adopt any local rule, form, or
213 practice requiring a standardized or default parenting plan
214 for interim, temporary, or permanent orders or judgments.
215 Notwithstanding any other provision of law to the contrary,
216 a court may enter an interim order in a proceeding under
217 this chapter, provided that the interim order shall not
218 contain any provisions about child custody or a parenting
219 schedule or plan without first providing the parties with
220 notice and a hearing, unless the parties otherwise agree.

221 12. Unless a parent has been denied custody rights
222 pursuant to this section or visitation rights under section
223 452.400, both parents shall have access to records and
224 information pertaining to a minor child including, but not
225 limited to, medical, dental, and school records. If the
226 parent without custody has been granted restricted or
227 supervised visitation because the court has found that the
228 parent with custody or any child has been the victim of
229 domestic violence, as defined in section 455.010, by the
230 parent without custody, the court may order that the reports
231 and records made available pursuant to this subsection not
232 include the address of the parent with custody or the
233 child. A court shall order that the reports and records
234 made available under this subsection not include the address
235 of the parent with custody if the parent with custody is a
236 participant in the address confidentiality program under
237 section 589.663. Unless a parent has been denied custody
238 rights pursuant to this section or visitation rights under
239 section 452.400, any judgment of dissolution or other
240 applicable court order shall specifically allow both parents
241 access to such records and reports.

242 13. Except as otherwise precluded by state or federal
243 law, if any individual, professional, public or private
244 institution or organization denies access or fails to
245 provide or disclose any and all records and information,
246 including, but not limited to, past and present dental,
247 medical and school records pertaining to a minor child, to
248 either parent upon the written request of such parent, the
249 court shall, upon its finding that the individual,
250 professional, public or private institution or organization
251 denied such request without good cause, order that party to
252 comply immediately with such request and to pay to the
253 prevailing party all costs incurred, including, but not

254 limited to, attorney's fees and court costs associated with
255 obtaining the requested information.

256 14. An award of joint custody does not preclude an
257 award of child support pursuant to section 452.340 and
258 applicable supreme court rules. The court shall consider
259 the factors contained in section 452.340 and applicable
260 supreme court rules in determining an amount reasonable or
261 necessary for the support of the child.

262 15. If the court finds that domestic violence or abuse
263 as defined in section 455.010 has occurred, the court shall
264 make specific findings of fact to show that the custody or
265 visitation arrangement ordered by the court best protects
266 the child and the parent or other family or household member
267 who is the victim of domestic violence, as defined in
268 section 455.010, and any other children for whom such parent
269 has custodial or visitation rights from any further harm.";
270 and

271 Further amend the title and enacting clause accordingly.