

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/Senate Bill No. 35, Page 1, Section TITLE, Lines 3-4,

2 by striking "child support enforcement" and inserting in  
 3 lieu thereof the following: "judicial proceedings involving  
 4 the parent-child relationship"; and

5 Further amend said bill and page, Section A, line 3, by  
 6 inserting after all of said line the following:

7 "452.375. 1. As used in this chapter, unless the  
 8 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

57           (5) The child's adjustment to the child's home,  
58 school, and community. The fact that a parent sends his or  
59 her child or children to a home school, as defined in  
60 section 167.031, shall not be the sole factor that a court  
61 considers in determining custody of such child or children;

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

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

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

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

88           (a) A felony violation of section 566.030, 566.031,  
89 566.032, 566.060, 566.061, 566.062, 566.064, 566.067,

90 566.068, 566.083, 566.100, 566.101, 566.111, 566.151,  
91 566.203, 566.206, 566.209, 566.211, or 566.215;

92 (b) A violation of section 568.020;

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

95 (d) A violation of section 568.065;

96 (e) A violation of section 573.200;

97 (f) A violation of section 573.205; or

98 (g) A violation of section 568.175.

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

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

123 section, and, in so doing, the court shall determine the  
124 custody arrangement which will best assure both parents  
125 participate in such decisions and have frequent, continuing  
126 and meaningful contact with their children so long as it is  
127 in the best interests of the child.

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

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

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

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

143 (4) Sole custody to either parent; or

144 (5) Third-party custody or visitation:

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

156 third person under this subdivision, the court shall make  
157 that person a party to the action;

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

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

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

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

189           9. Any judgment providing for custody shall include a  
190 specific written parenting plan setting forth the terms of  
191 such parenting plan arrangements specified in subsection 8  
192 of section 452.310. Such plan may be a parenting plan  
193 submitted by the parties pursuant to section 452.310 or, in  
194 the absence thereof, a plan determined by the court, but in  
195 all cases, the custody plan approved and ordered by the  
196 court shall be in the court's discretion and shall be in the  
197 best interest of the child.

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

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

221 schedule or plan without first providing the parties with  
222 notice and a hearing, unless the parties otherwise agree.

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

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

254 comply immediately with such request and to pay to the  
255 prevailing party all costs incurred, including, but not  
256 limited to, attorney's fees and court costs associated with  
257 obtaining the requested information.

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

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

273         Further amend the title and enacting clause accordingly.