

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 214
AN ACT

To repeal sections 210.841 and 452.340, RSMo, and to enact in lieu thereof two new sections relating to child support for unborn children.

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

Section A. Sections 210.841 and 452.340, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 210.841 and 452.340, to read as follows:

210.841. 1. The judgment or order of the court
2 determining the existence or nonexistence of the parent and
3 child relationship is determinative for all purposes.

4 2. If the judgment or order of the court varies with
5 the child's birth certificate, the court shall order that an
6 amended birth registration be made pursuant to section
7 210.849.

8 3. The judgment or order shall contain the Social
9 Security number of each party and may contain any other
10 provision directed against the appropriate party to the
11 proceeding concerning:

12 (1) The duty of support;

13 (2) The custody and guardianship of the child;

14 (3) Visitation privileges with the child;

15 (4) The furnishing of bond or other security for the
16 payment of the judgment; or

17 (5) Any matter in the best interest of the child. The
18 judgment or order may direct the father to pay the
19 reasonable expenses of the mother's pregnancy and
20 confinement.

21 4. Support judgments or orders ordinarily shall be for
22 periodic payments. In the best interests of the child, a
23 lump sum payment or the purchase of an annuity may be
24 ordered in lieu of periodic payments of support. The court
25 may limit the father's liability for past support of the
26 child to the proportion of the expenses already incurred
27 that the court deems just.

28 5. There shall be a rebuttable presumption that the
29 amount of support that would result from the application of
30 supreme court rule 88.01 is the correct amount of child
31 support to be awarded. A written finding or specific
32 finding on the record that the application of supreme court
33 rule 88.01 would be unjust or inappropriate in a particular
34 case, after considering all relevant factors including the
35 factors in subsection 6 of this section, shall be sufficient
36 to rebut the presumption in the case.

37 6. In determining the amount to be paid by a parent
38 for support of the child and the period during which the
39 duty of support is owed, the court shall consider all
40 relevant facts, including:

- 41 (1) The needs of the child;
- 42 (2) The standard of living and circumstances of the
43 parents;
- 44 (3) The relative financial means of the parents;
- 45 (4) The earning ability of the parents;
- 46 (5) The need and capacity of the child for education,
47 including higher education;
- 48 (6) The age of the child;
- 49 (7) The financial resources and earning capacity of
50 the child;
- 51 (8) The responsibility of the parents for the support
52 of other children;

53 (9) The value of the services contributed by the
54 custodial parent; and

55 (10) The standard of living and circumstances of the
56 family prior to the dissolution of marriage of parents or
57 during the period of cohabitation of the parents.

58 7. Any award for periodic child support may be
59 retroactive to the date of service of the original petition
60 upon the obligor.

61 8. (1) A biological father of a child shall have a
62 duty to pay fifty percent of the mother's pregnancy-related
63 expenses. If paternity is contested, the biological father
64 shall not be obligated to pay such expenses until such time
65 as paternity has been established. Payments for the
66 biological father's obligation may be retroactively awarded
67 under this subsection. Any portion of a mother's pregnancy-
68 related expenses paid by the mother or biological father
69 shall reduce that parent's fifty-percent share under this
70 subdivision and not the total amount of pregnancy-related
71 expenses.

72 (2) Any order awarding pregnancy-related expenses
73 under this subsection may be made as part of a child support
74 order under this section or as a separate order. Nothing in
75 this subsection shall prohibit a party from petitioning the
76 court for appropriate child support in addition to or
77 separate from an order under this subsection.

78 (3) Any order awarding pregnancy-related expenses
79 under this subsection may be enforced in the same manner as
80 any child support order entered by the court under this
81 section.

82 (4) As used in this subsection, "pregnancy-related
83 expenses" shall include, but not be limited to, the pregnant
84 mother's health insurance premiums while pregnant that are
85 not paid by an employer or government agency and medical

86 costs related to the pregnancy incurred after the date of
87 implantation and through the end of the pregnancy, including
88 expenses related to birth, stillbirth, or miscarriage.

452.340. 1. In a proceeding for dissolution of
2 marriage, legal separation or child support, the court may
3 order either or both parents owing a duty of support to a
4 child of the marriage to pay an amount reasonable or
5 necessary for the support of the child, including an award
6 retroactive to the date of filing the petition, without
7 regard to marital misconduct, after considering all relevant
8 factors including:

9 (1) The financial needs and resources of the child;

10 (2) The financial resources and needs of the parents;

11 (3) The standard of living the child would have
12 enjoyed had the marriage not been dissolved;

13 (4) The physical and emotional condition of the child,
14 and the child's educational needs;

15 (5) The child's physical and legal custody
16 arrangements, including the amount of time the child spends
17 with each parent and the reasonable expenses associated with
18 the custody or visitation arrangements; and

19 (6) The reasonable work-related child care expenses of
20 each parent.

21 2. The obligation of the parent ordered to make
22 support payments shall abate, in whole or in part, for such
23 periods of time in excess of thirty consecutive days that
24 the other parent has voluntarily relinquished physical
25 custody of a child to the parent ordered to pay child
26 support, notwithstanding any periods of visitation or
27 temporary physical and legal or physical or legal custody
28 pursuant to a judgment of dissolution or legal separation or
29 any modification thereof. In a IV-D case, the family
30 support division may determine the amount of the abatement

31 pursuant to this subsection for any child support order and
32 shall record the amount of abatement in the automated child
33 support system record established pursuant to chapter 454.
34 If the case is not a IV-D case and upon court order, the
35 circuit clerk shall record the amount of abatement in the
36 automated child support system record established in chapter
37 454.

38 3. Unless the circumstances of the child manifestly
39 dictate otherwise and the court specifically so provides,
40 the obligation of a parent to make child support payments
41 shall terminate when the child:

42 (1) Dies;

43 (2) Marries;

44 (3) Enters active duty in the military;

45 (4) Becomes self-supporting, provided that the
46 custodial parent has relinquished the child from parental
47 control by express or implied consent;

48 (5) Reaches age eighteen, unless the provisions of
49 subsection 4 or 5 of this section apply; or

50 (6) Reaches age twenty-one, unless the provisions of
51 the child support order specifically extend the parental
52 support order past the child's twenty-first birthday for
53 reasons provided by subsection 4 of this section.

54 4. If the child is physically or mentally
55 incapacitated from supporting himself and insolvent and
56 unmarried, the court may extend the parental support
57 obligation past the child's eighteenth birthday.

58 5. If when a child reaches age eighteen, the child is
59 enrolled in and attending a secondary school program of
60 instruction, the parental support obligation shall continue,
61 if the child continues to attend and progresses toward
62 completion of said program, until the child completes such
63 program or reaches age twenty-one, whichever first occurs.

64 If the child is enrolled in an institution of vocational or
65 higher education not later than October first following
66 graduation from a secondary school or completion of a
67 graduation equivalence degree program and so long as the
68 child enrolls for and completes at least twelve hours of
69 credit each semester, not including the summer semester, at
70 an institution of vocational or higher education and
71 achieves grades sufficient to reenroll at such institution,
72 the parental support obligation shall continue until the
73 child completes his or her education, or until the child
74 reaches the age of twenty-one, whichever first occurs. To
75 remain eligible for such continued parental support, at the
76 beginning of each semester the child shall submit to each
77 parent a transcript or similar official document provided by
78 the institution of vocational or higher education which
79 includes the courses the child is enrolled in and has
80 completed for each term, the grades and credits received for
81 each such course, and an official document from the
82 institution listing the courses which the child is enrolled
83 in for the upcoming term and the number of credits for each
84 such course. When enrolled in at least twelve credit hours,
85 if the child receives failing grades in half or more of his
86 or her courseload in any one semester, payment of child
87 support may be terminated and shall not be eligible for
88 reinstatement. Upon request for notification of the child's
89 grades by the noncustodial parent, the child shall produce
90 the required documents to the noncustodial parent within
91 thirty days of receipt of grades from the education
92 institution. If the child fails to produce the required
93 documents, payment of child support may terminate without
94 the accrual of any child support arrearage and shall not be
95 eligible for reinstatement. If the circumstances of the
96 child manifestly dictate, the court may waive the October

97 first deadline for enrollment required by this subsection.
98 If the child is enrolled in such an institution, the child
99 or parent obligated to pay support may petition the court to
100 amend the order to direct the obligated parent to make the
101 payments directly to the child. As used in this section, an
102 "institution of vocational education" means any
103 postsecondary training or schooling for which the student is
104 assessed a fee and attends classes regularly. "Higher
105 education" means any community college, college, or
106 university at which the child attends classes regularly. A
107 child who has been diagnosed with a developmental
108 disability, as defined in section 630.005, or whose physical
109 disability or diagnosed health problem limits the child's
110 ability to carry the number of credit hours prescribed in
111 this subsection, shall remain eligible for child support so
112 long as such child is enrolled in and attending an
113 institution of vocational or higher education, and the child
114 continues to meet the other requirements of this
115 subsection. A child who is employed at least fifteen hours
116 per week during the semester may take as few as nine credit
117 hours per semester and remain eligible for child support so
118 long as all other requirements of this subsection are
119 complied with.

120 6. The court shall consider ordering a parent to waive
121 the right to claim the tax dependency exemption for a child
122 enrolled in an institution of vocational or higher education
123 in favor of the other parent if the application of state and
124 federal tax laws and eligibility for financial aid will make
125 an award of the exemption to the other parent appropriate.

126 7. The general assembly finds and declares that it is
127 the public policy of this state that frequent, continuing
128 and meaningful contact with both parents after the parents
129 have separated or dissolved their marriage is in the best

130 interest of the child except for cases where the court
131 specifically finds that such contact is not in the best
132 interest of the child. In order to effectuate this public
133 policy, a court with jurisdiction shall enforce visitation,
134 custody and child support orders in the same manner. A
135 court with jurisdiction may abate, in whole or in part, any
136 past or future obligation of support and may transfer the
137 physical and legal or physical or legal custody of one or
138 more children if it finds that a parent has, without good
139 cause, failed to provide visitation or physical and legal or
140 physical or legal custody to the other parent pursuant to
141 the terms of a judgment of dissolution, legal separation or
142 modifications thereof. The court shall also award, if
143 requested and for good cause shown, reasonable expenses,
144 attorney's fees and court costs incurred by the prevailing
145 party.

146 8. The Missouri supreme court shall have in effect a
147 rule establishing guidelines by which any award of child
148 support shall be made in any judicial or administrative
149 proceeding. Said guidelines shall contain specific,
150 descriptive and numeric criteria which will result in a
151 computation of the support obligation. The guidelines shall
152 address how the amount of child support shall be calculated
153 when an award of joint physical custody results in the child
154 or children spending equal or substantially equal time with
155 both parents and the directions and comments and any tabular
156 representations of the directions and comments for
157 completion of the child support guidelines and a subsequent
158 form developed to reflect the guidelines shall reflect the
159 ability to obtain up to a fifty percent adjustment or credit
160 below the basic child support amount for joint physical
161 custody or visitation as described in subsection 11 of this
162 section. The Missouri supreme court shall publish child

163 support guidelines and specifically list and explain the
164 relevant factors and assumptions that were used to calculate
165 the child support guidelines. Any rule made pursuant to
166 this subsection shall be reviewed by the promulgating body
167 not less than once every four years to ensure that its
168 application results in the determination of appropriate
169 child support award amounts.

170 9. There shall be a rebuttable presumption, in any
171 judicial or administrative proceeding for the award of child
172 support, that the amount of the award which would result
173 from the application of the guidelines established pursuant
174 to subsection 8 of this section is the correct amount of
175 child support to be awarded. A written finding or specific
176 finding on the record in a judicial or administrative
177 proceeding that the application of the guidelines would be
178 unjust or inappropriate in a particular case, after
179 considering all relevant factors, including the factors set
180 out in subsection 1 of this section, shall be required and
181 shall be sufficient to rebut the presumption in the case.
182 The written finding or specific finding on the record shall
183 detail the specific relevant factors that required a
184 deviation from the application of the guidelines.

185 10. Pursuant to this or any other chapter, when a
186 court determines the amount owed by a parent for support
187 provided to a child by another person, other than a parent,
188 prior to the date of filing of a petition requesting
189 support, or when the director of the family support division
190 establishes the amount of state debt due pursuant to
191 subdivision (2) of subsection 1 of section 454.465, the
192 court or director shall use the guidelines established
193 pursuant to subsection 8 of this section. The amount of
194 child support resulting from the application of the
195 guidelines shall be applied retroactively for a period prior

196 to the establishment of a support order and the length of
197 the period of retroactivity shall be left to the discretion
198 of the court or director. There shall be a rebuttable
199 presumption that the amount resulting from application of
200 the guidelines under subsection 8 of this section
201 constitutes the amount owed by the parent for the period
202 prior to the date of the filing of the petition for support
203 or the period for which state debt is being established. In
204 applying the guidelines to determine a retroactive support
205 amount, when information as to average monthly income is
206 available, the court or director may use the average monthly
207 income of the noncustodial parent, as averaged over the
208 period of retroactivity, in determining the amount of
209 presumed child support owed for the period of
210 retroactivity. The court or director may enter a different
211 amount in a particular case upon finding, after
212 consideration of all relevant factors, including the factors
213 set out in subsection 1 of this section, that there is
214 sufficient cause to rebut the presumed amount.

215 11. The court may award child support in an amount
216 that provides up to a fifty percent adjustment below the
217 basic child support amount authorized by the child support
218 guidelines described under subsection 8 of this section for
219 custody awards of joint physical custody where the child or
220 children spend equal or substantially equal time with both
221 parents.

222 12. The obligation of a parent to make child support
223 payments may be terminated as follows:

224 (1) Provided that the state case registry or child
225 support order contains the child's date of birth, the
226 obligation shall be deemed terminated without further
227 judicial or administrative process when the child reaches
228 age twenty-one if the child support order does not

229 specifically require payment of child support beyond age
230 twenty-one for reasons provided by subsection 4 of this
231 section;

232 (2) The obligation shall be deemed terminated without
233 further judicial or administrative process when the parent
234 receiving child support furnishes a sworn statement or
235 affidavit notifying the obligor parent of the child's
236 emancipation in accordance with the requirements of
237 subsection 4 of section 452.370, and a copy of such sworn
238 statement or affidavit is filed with the court which entered
239 the order establishing the child support obligation, or the
240 family support division for an order entered under section
241 454.470;

242 (3) The obligation shall be deemed terminated without
243 further judicial or administrative process when the parent
244 paying child support files a sworn statement or affidavit
245 with the court which entered the order establishing the
246 child support obligation, or the family support division for
247 an order entered under section 454.470, stating that the
248 child is emancipated and reciting the factual basis for such
249 statement; which statement or affidavit is served by the
250 court or division, as applicable, on the child support
251 obligee; and which is either acknowledged and affirmed by
252 the child support obligee in writing, or which is not
253 responded to in writing within thirty days of receipt by the
254 child support obligee;

255 (4) The obligation shall be terminated as provided by
256 this subdivision by the court which entered the order
257 establishing the child support obligation, or the family
258 support division for an order entered under section 454.470,
259 when the parent paying child support files a sworn statement
260 or affidavit with the court which entered the order
261 establishing the child support obligation, or the family

262 support division, as applicable, stating that the child is
263 emancipated and reciting the factual basis for such
264 statement; and which statement or affidavit is served by the
265 court or division, as applicable, on the child support
266 obligee. If the obligee denies the statement or affidavit,
267 the court or division shall thereupon treat the sworn
268 statement or affidavit as a request for hearing and shall
269 proceed to hear and adjudicate such request for hearing as
270 provided by law; provided that the court may require the
271 payment of a deposit as security for court costs and any
272 accrued court costs, as provided by law, in relation to such
273 request for hearing. When the division receives a request
274 for hearing, the hearing shall be held in the manner
275 provided by section 454.475.

276 13. The court may enter a judgment terminating child
277 support pursuant to subdivisions (1) to (3) of subsection 12
278 of this section without necessity of a court appearance by
279 either party. The clerk of the court shall mail a copy of a
280 judgment terminating child support entered pursuant to
281 subsection 12 of this section on both the obligor and
282 obligee parents. The supreme court may promulgate uniform
283 forms for sworn statements and affidavits to terminate
284 orders of child support obligations for use pursuant to
285 subsection 12 of this section and subsection 4 of section
286 452.370.

287 14. (1) A biological father of a child shall have a
288 duty to pay fifty percent of the mother's pregnancy-related
289 expenses. If paternity is contested, the biological father
290 shall not be obligated to pay such expenses until such time
291 as paternity has been established. Payments for the
292 biological father's obligation may be retroactively awarded
293 under this subsection. Any portion of a mother's pregnancy-
294 related expenses paid by the mother or biological father

295 shall reduce that parent's fifty-percent share under this
296 subdivision and not the total amount of pregnancy-related
297 expenses.

298 (2) Any order awarding pregnancy-related expenses
299 under this subsection may be made as part of a child support
300 order under this section or as a separate order. Nothing in
301 this subsection shall prohibit a party from petitioning the
302 court for appropriate child support in addition to or
303 separate from an order under this subsection.

304 (3) Any order awarding pregnancy-related expenses
305 under this subsection may be enforced in the same manner as
306 any child support order entered by the court under this
307 section.

308 (4) As used in this subsection, "pregnancy-related
309 expenses" shall include, but not be limited to, the pregnant
310 mother's health insurance premiums while pregnant that are
311 not paid by an employer or government agency and medical
312 costs related to the pregnancy incurred after the date of
313 implantation and through the end of the pregnancy, including
314 expenses related to birth, stillbirth, or miscarriage.