

Missouri Divorce Laws

TITLE XXX DOMESTIC RELATIONS

Chapter 451 Marriage, Marriage Contracts, and Rights of Married Women

Marriage a civil contract.

451.010. Marriage is considered in law as a civil contract, to which the consent of the parties capable in law of contracting is essential.

Certain marriages prohibited--official issuing licenses to certain persons guilty of misdemeanor.

451.020. All marriages between parents and children, including grandparents and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, between uncles and nieces, aunts and nephews, first cousins, and between persons who lack capacity to enter into a marriage contract, are presumptively void; and it shall be unlawful for any city, county or state official having authority to issue marriage licenses to issue such marriage licenses to the persons heretofore designated, and any such official who shall issue such licenses to the persons aforesaid knowing such persons to be within the prohibition of this section shall be deemed guilty of a misdemeanor; and this prohibition shall apply to persons born out of lawful wedlock as well as those in lawful wedlock. It shall be presumed that marriages between persons who lack capacity to enter into a marriage contract are prohibited unless the court having jurisdiction over such persons approves the marriage.

Chapter 452 Dissolution of Marriage, Divorce, Alimony and Separate Maintenance

Verified pleadings, form and content.

452.025. 1. All pleadings required to be verified under this chapter may at the time of execution be made by the acknowledgment thereof by the petitioner or respondent made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, under official seal, attached or annexed to the pleading in form and content substantially as follows:

THE STATE OF

COUNTY OF

(The undersigned), of lawful age, being duly sworn on his/her oath, states that he/she is the petitioner/respondent named above and that the facts stated in the are true according to his/her best knowledge and belief.

.....

Petitioner/Respondent

Subscribed and sworn to before me this day of, 20...

My commission expires: Notary Public

2. All references in this chapter regarding a "verified" document shall be satisfied by compliance with the requirements of subsection 1 of this section.

Remarriage of former spouse ends alimony.

452.075. When a divorce has been granted, and the court has made an order or decree providing for the payment of alimony and maintenance, the remarriage of the former spouse shall relieve the

spouse obligated to pay support from further payment of alimony to the former spouse from the date of the remarriage, without the necessity of further court action, but the remarriage shall not relieve the former spouse from the provisions of any judgment or decree or order providing for the support of any minor children.

Decree for alimony--a lien, when.

452.080. Upon a decree of divorce, the court may, in its discretion, decree alimony in gross or from year to year. When alimony is decreed in gross, such decree shall be a general lien on the realty of the party against whom the decree may be rendered, as in the case of other judgments. When such decree is for alimony from year to year, such decree shall not be a lien on the realty as aforesaid, but an execution in the hands of the proper officer, issued for the purpose of enforcing such decree, shall constitute a lien on the real and personal property of the defendant in such execution, so long as the same shall lawfully remain in the possession of such officer unsatisfied. In lieu of the lien of such decree for alimony from year to year, it is hereby provided that the party against whom such decree may be rendered shall be required to give security ample and sufficient for such alimony; but where default has been made in giving such security, the decree for alimony from year to year shall be a lien as in case of general judgments.

Decree as to alimony only subject to review.

452.110. No petition for review of any judgment for divorce, rendered in any case arising pursuant to this chapter, shall be allowed, any law or statute to the contrary notwithstanding; but there may be a review of any order or judgment touching the alimony and maintenance of the spouse, and the care, custody and maintenance of the children, or any of them, as in other cases.

Spouse abandoned, court to adjudge maintenance--execution to enforce.

452.130. When a person, without good cause, shall abandon his or her spouse, and refuse or neglect to maintain and provide for him or her, the circuit court, on his or her petition for that purpose, shall order and adjudge such support and maintenance to be provided and paid by such person for the spouse and the spouse's children, or any of them, by that marriage, out of his property, and for such time as the nature of the case and the circumstances of the parties shall require, and compel the person to give security for such maintenance, and from time to time make such further orders touching the same as shall be just, and enforce such judgment by execution, sequestration of property, or by such other lawful means as are in accordance with the practice of the court; and as long as said maintenance is continued, the person shall not be charged with the spouse's debts, contracted after the judgment for such maintenance.

No property exempt from attachment or execution, when.

452.140. No property shall be exempt from attachment or execution in a proceeding instituted by a person for maintenance, nor from attachment or execution upon a judgment or order issued to enforce a decree for alimony or for the support and maintenance of children. And all wages due to the defendant shall be subject to garnishment on attachment or execution in any proceedings mentioned in this section, whether the wages are due from the garnishee to the defendant for the last thirty days' service or not.

Services and earnings of unmarried minor children--custody and control of.

452.150. The father and mother living apart are entitled to an adjudication by the circuit court as to their powers, rights and duties in respect to the custody and control and the services and earnings and management of the property of their unmarried minor children without any preference as between the said father and mother, and neither the father nor the mother has any right paramount to that of the other in respect to the custody and control or the services and earnings or of the management of the property of their said unmarried minor children; pending such adjudication the father or mother who actually has the custody and control of said unmarried minor children shall have the sole right to the custody and control and to the services and earnings and to the management of the property of said unmarried minor children.

Father and mother, parent, child, defined--how construed.

452.160. The terms of section 452.150 shall apply to children born out of wedlock and to children born in wedlock, and the terms "father and mother", "parent", "child", shall apply without reference to whether a child was born in lawful wedlock.

Petition for enjoyment of spouse's separate estate, when.

452.170. If any married person shall hold real estate in his or her own right, and his or her spouse, by criminal conduct toward him or her, or by ill usage, shall give him or her cause to live separate and apart from him or her, such person may petition the circuit court, setting forth such facts, and therein pray that such estate may be enjoyed by him or her for his or her sole use and benefit.

Circuit court may make decree.

452.180. The circuit court, on due proof of such facts, may, in its discretion, make such order and decree in the premises as shall give such married person the sole use and benefit of such real estate, or such part thereof as it may think reasonable.

Authorization by court to sell property.

452.190. When any married person shall abandon his or her spouse, or from worthlessness, drunkenness or other cause fail to make sufficient provision for his or her support, the circuit court of the county where he or she has his or her home and residence may, on his or her petition, authorize him or her to sell and convey his or her real estate, or any part thereof, and also any personal estate which shall, at the time, have come to such person by reason of the marriage, and which may remain within the state undisposed of by him.

Married person enjoined from squandering property at suit of spouse.

452.200. Any married person may file a petition in the circuit court, setting forth that his or her spouse, from habitual intemperance, or any other cause, is about to squander and waste the property, money, credits or choses in action to which he or she is entitled in his or her own right, or any part thereof, or is proceeding fraudulently to convert the same, or any part thereof, to the spouse's own use, for the purpose of placing the same beyond his or her reach, and depriving him or her of the benefit thereof; and the court, upon the hearing of the case, may enjoin the spouse from disposing of or otherwise interfering with such property, moneys, credits and choses in action, and may appoint a receiver to control and manage the same for the benefit of the petitioner, and may also make such other order in the premises as they may deem just and proper, and upon the filing of such petition an injunction may be allowed as in other cases, and such petition shall be filed in the county where said petitioner resides, and the spouse of said petitioner shall be made a party defendant to said petition.

Court may authorize persons holding money of married person to pay spouse.

452.210. The court may also, upon the petition of such person, authorize any person holding money or other personal estate to which the spouse is entitled in his or her right to pay and deliver the same to the petitioner, and may authorize him or her to give a discharge for the same, which discharge shall be as valid as if made by the spouse.

Married person entitled to proceeds of earnings of his or her minor children, when.

452.220. Such married person, during the period his or her spouse shall fail to provide for his or her support, as stated in section 452.130, shall be entitled to the proceeds of the earnings of his or her minor children; and the same shall be under his or her sole control and shall not be liable in any manner for the spouse's debts.

Proceeds used for support of himself or herself and family.

452.230. All the proceeds of such sales, and all other money and personal estate which shall come to the hands of a person by force of the provisions of sections 451.250 to 451.300, RSMo, and sections 452.130, 452.140, 452.170 to 452.190 and 452.210 to 452.250, may be used and disposed of by him or her for the necessary support of himself or herself and family.

Filing of petition, proceedings.

452.240. The petition of a married person for any of the purposes before mentioned may be filed and the case heard and determined in the circuit court, and the like process and proceedings shall be had as in other civil suits triable before circuit judges.

Proceedings on such petition--appeal allowed, when and where.

452.250. The same proceedings shall be had in relation to such petition as the law requires in other proceedings before circuit judges, and in relation to enforcing the orders and decrees, except that no appeal shall be allowed to the supreme court, or court of appeals, from any order or decree, on the part of the person's spouse, until he or she has indemnified the petitioner for all delays and costs, in such manner as the court shall direct.

Procedure and venue.

452.300. 1. The rules of the supreme court and other applicable court rules shall govern all proceedings pursuant to sections 452.300 to 452.415.

2. A proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled: "In re the Marriage of and".

3. The initial pleading in an original proceeding pursuant to sections 452.300 to 452.415 shall be denominated a "petition" and the responsive pleading in an original proceeding shall be denominated an "answer". Other pleadings in an original proceeding and all pleadings in other proceedings pursuant to sections 452.300 to 452.415 shall be denominated as provided in the rules of the supreme court and other applicable court rules.

4. Any party who files the initial pleading in an original proceeding pursuant to sections 452.300 to 452.415 shall be denominated the "petitioner" and any party who is required to file or who files a responsive pleading in an original proceeding shall be denominated the "respondent". Each party shall retain such denomination from the original proceeding in any other proceedings pursuant to sections 452.300 to 452.415.

5. An original proceeding pursuant to sections 452.300 to 452.415 shall be commenced in the county in which the petitioner resides or in the county in which the respondent resides. If an original proceeding is commenced in the county in which the petitioner resides, upon motion by the respondent filed prior to the filing of a responsive pleading, the court in which the proceeding is commenced may transfer the proceeding to the county in which the respondent resides if:

(1) The county in which the respondent resides had been the county in which the children resided during the ninety days immediately preceding the commencement of the proceeding; or

(2) The best interest of the children will be served if the proceeding is transferred to the county in which the respondent resides because:

(a) The children and at least one parent have a significant connection with the county; and

(b) There is substantial evidence concerning the present or future care, protection and personal relationships of the children in the county.

6. In proceedings pursuant to sections 452.300 to 452.415, "judgment" shall include a "decree".

Judgment of dissolution, grounds for--legal separation, when --judgments to contain Social Security numbers.

452.305. 1. The court shall enter a judgment of dissolution of marriage if:

(1) The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days immediately preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; and

(2) The court finds that there remains no reasonable likelihood that the marriage can be preserved and that therefore the marriage is irretrievably broken; and

(3) To the extent it has jurisdiction, the court has considered and made provision for child custody, the support of each child, the maintenance of either spouse and the disposition of property.

2. The court shall enter a judgment of legal separation if:

(1) The court finds that one of the parties has been a resident of this state, or is a member of the armed services who has been stationed in this state, for ninety days immediately preceding the commencement of the proceeding and that thirty days have elapsed since the filing of the petition; and

(2) The court finds that there remains a reasonable likelihood that the marriage can be preserved and that therefore the marriage is not irretrievably broken; and

(3) To the extent it has jurisdiction, the court has considered and made provision for the custody and the support of each child, the maintenance of either spouse and the disposition of property.

3. Any judgment of dissolution of marriage or legal separation shall include the Social Security numbers of the parties.

Petition, contents--service, how--rules to apply--defenses abolished--parenting plans submitted, when, content, exception.

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

(1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;

(2) The date of the marriage and the place at which it is registered;

(3) The date on which the parties separated;

(4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;

(5) Whether the wife is pregnant;

(6) The Social Security number of the petitioner, respondent and each child;

(7) Any arrangements as to the custody and support of the children and the maintenance of each party; and

(8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

(1) The Social Security number of the petitioner, respondent and each child;

(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:

(a) Major holidays stating which holidays a party has each year;

(b) School holidays for school-age children;

(c) The child's birthday, Mother's Day and Father's Day;

(d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;

(e) The times and places for transfer of the child between the parties in connection with the residential schedule;

(f) A plan for sharing transportation duties associated with the residential schedule;

(g) Appropriate times for telephone access;

(h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;

(i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;

(2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:

(a) Educational decisions and methods of communicating information from the school to both parties;

(b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a party suggests no shared decision-making, a statement of the reasons for such a request;

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

(a) The suggested amount of child support to be paid by each party;

(b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;

(c) The payment of educational expenses, if any;

(d) The payment of extraordinary expenses of the child, if any;

(e) Child care expenses, if any;

(f) Transportation expenses, if any.

8. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection 7 of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

10. The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

Petition for dissolution filed when, requirements.

452.311. A petition is not filed within the meaning of supreme court rule 53.01 in any cause of action authorized by the provisions of this chapter, unless a summons is issued forthwith as required by supreme court rule 54.01, a verified and notarized entry of appearance of respondent is filed or an attorney files an entry of appearance on behalf of respondent.

Parties' current employers and Social Security numbers to be contained in certain pleadings and decrees.

452.312. 1. Every petition for dissolution of marriage or legal separation, every motion for modification of a decree respecting maintenance or support, and every petition or motion for support of a minor child shall contain the name and address of the current employer and the Social Security number of the petitioner or movant, if a person, and, if known to petitioner or movant, the name and address of the current employer and the Social Security number of the respondent.

2. Every responsive pleading to a petition for dissolution of marriage or legal separation, motion for modification of a decree respecting maintenance or support, and petition or motion for support of a minor child shall contain the name and address of the current employer and the Social Security number of the respondent, if the respondent is a person.

3. Every decree dissolving a marriage, every order modifying a previous decree of dissolution or divorce, and every order for support of a minor child shall contain the Social Security numbers of the parties, if disclosed by the pleadings.

Guardian for incapacitated person may file for dissolution or separation if ward is a victim of spousal abuse.

452.314. Notwithstanding any other provision of law to the contrary, a guardian for an incapacitated person may file a petition for dissolution of the marriage of, or if the incapacitated person has a history of religious objection to divorce, the guardian may file for a legal separation for such incapacitated person and may give testimony in support of the allegations contained in the petition, if the guardian has reasonable cause to believe that the incapacitated person has been the victim of abuse by the spouse of such incapacitated person.

Authorized motions--restraining order, when, answer, when due, effect of--child support, temporary order, when, amount.

452.315. 1. In a proceeding for dissolution of marriage or legal separation, either party may move for temporary maintenance and for temporary support for each child entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. In a proceeding for disposition of property, maintenance or support following the dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for maintenance and for support of each child entitled to support. This motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested. This motion and the affidavit shall be served as though an original pleading upon the opposite party.

2. As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue an order after notice and hearing:

(1) Restraining any person from transferring, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life and, if so restrained, requiring the person to notify the moving party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the order is issued;

(2) Enjoining a party from harassing, abusing, molesting or disturbing the peace of the other party or of any child;

(3) Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result;

(4) Establishing and ordering compliance with a custody order and providing for the support of each child.

3. The court may issue a restraining order only if it finds on the evidence that irreparable injury would result to the moving party if an order is not issued until the time for answering has elapsed.

4. An answer may be filed within ten days after service of notice of motion or at the time specified in the restraining order.

5. On the basis of the showing made and in conformity with section 452.335 on maintenance and section 452.340 on support, the court may issue a temporary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

6. A restraining order or temporary injunction:

(1) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceedings;

(2) May be revoked or modified prior to final judgment on a showing by affidavit of the facts necessary to revocation or modification of a final judgment pursuant to section 452.370; and

(3) Terminates when the final judgment is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

7. The court shall enter a temporary order requiring the provision of child support pending the final judicial determination if there is clear and convincing evidence establishing a presumption of paternity pursuant to section 210.822, RSMo. In determining the amount of child support, the court shall consider the factors set forth in section 452.340.

8. Any order entered in modification or vacation of any temporary order entered pursuant to this section may be retroactive to the date of entry of the original temporary order.

Termination of insurance prohibited, when.

452.317. From the date of filing of the petition for dissolution of marriage or legal separation, no party shall terminate coverage during the pendency of the proceeding for any other party or any minor child of the marriage under any existing policy of health, dental or vision insurance.

Counseling for minor children ordered, when, costs.

452.318. In any action for dissolution of marriage involving minor children, the court may order counseling for such children. The court may assess and apportion the costs of child counseling between the parties.

Finding that marriage is irretrievably broken, when--notice--denial by a party, effect of--alternate findings.

452.320. 1. If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after considering the aforesaid petition or statement, and after a hearing thereon shall make a finding whether or not the marriage is irretrievably broken and shall enter an order of dissolution or dismissal accordingly.

2. If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospect of reconciliation, and after hearing the evidence shall

(1) Make a finding whether or not the marriage is irretrievably broken, and in order for the court to find that the marriage is irretrievably broken, the petitioner shall satisfy the court of one or more of the following facts:

(a) That the respondent has committed adultery and the petitioner finds it intolerable to live with the respondent;

(b) That the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent;

(c) That the respondent has abandoned the petitioner for a continuous period of at least six months preceding the presentation of the petition;

(d) That the parties to the marriage have lived separate and apart by mutual consent for a continuous period of twelve months immediately preceding the filing of the petition;

(e) That the parties to the marriage have lived separate and apart for a continuous period of at least twenty-four months preceding the filing of the petition; or

(2) Continue the matter for further hearing not less than thirty days or more than six months later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. No court shall require counseling as a condition precedent to a decree, nor shall any employee of any court, or of the state or any political subdivision of the state, be utilized as a marriage counselor. At the adjourned hearing, the court shall make a finding whether the marriage is irretrievably broken as set forth in subdivision (1) above and shall enter an order of dissolution or dismissal accordingly.

Separation agreements authorized, effect of--orders for disposition of property, when--terms of agreement, how enforced.

452.325. 1. To promote the amicable settlement of disputes between the parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for the maintenance of either of them, the disposition of any property owned by either of them, and the custody, support and visitation of their children.

2. In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except terms providing for the custody, support, and visitation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unconscionable.

3. If the court finds the separation agreement unconscionable, the court may request the parties to submit a revised separation agreement or the court may make orders for the disposition of property, support, and maintenance in accordance with the provisions of sections 452.330, 452.335 and 452.340.

4. If the court finds that the separation agreement is not unconscionable as to support, maintenance, and property:

(1) Unless the separation agreement provides to the contrary, its terms shall be set forth in the decree of dissolution or legal separation and the parties shall be ordered to perform them; or

(2) If the separation agreement provides that its terms shall not be set forth in the decree, only those terms concerning child support, custody and visitation shall be set forth in the decree, and the decree shall state that the court has found the remaining terms not unconscionable.

5. Terms of the agreement set forth in the decree are enforceable by all remedies available for the enforcement of a judgment, and the court may punish any party who willfully violates its decree to

the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

6. Except for terms concerning the support, custody or visitation of children, the decree may expressly preclude or limit modification of terms set forth in the decree if the separation agreement so provides.

Disposition of property and debts, factors to be considered.

452.330. 1. In a proceeding for dissolution of the marriage or legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall set apart to each spouse such spouse's nonmarital property and shall divide the marital property and marital debts in such proportions as the court deems just after considering all relevant factors including:

(1) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children;

(2) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;

(3) The value of the nonmarital property set apart to each spouse;

(4) The conduct of the parties during the marriage; and

(5) Custodial arrangements for minor children.

2. For purposes of sections 452.300 to 452.415 only, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(1) Property acquired by gift, bequest, devise, or descent;

(2) Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(3) Property acquired by a spouse after a decree of legal separation;

(4) Property excluded by valid written agreement of the parties; and

(5) The increase in value of property acquired prior to the marriage or pursuant to subdivisions (1) to (4) of this subsection, unless marital assets including labor, have contributed to such increases and then only to the extent of such contributions.

3. All property acquired by either spouse subsequent to the marriage and prior to a decree of legal separation or dissolution of marriage is presumed to be marital property regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection 2 of this section.

4. Property which would otherwise be nonmarital property shall not become marital property solely because it may have become commingled with marital property.

5. The court's order as it affects distribution of marital property shall be a final order not subject to modification; provided, however, that orders intended to be qualified domestic relations orders affecting pension, profit sharing and stock bonus plans pursuant to the U.S. Internal Revenue Code shall be modifiable only for the purpose of establishing or maintaining the order as a qualified

domestic relations order or to revise or conform its terms so as to effectuate the expressed intent of the* order.

6. A certified copy of any decree of court affecting title to real estate may be filed for record in the office of the recorder of deeds of the county and state in which the real estate is situated by the clerk of the court in which the decree was made.

Maintenance order, findings required for--termination date, may be modified, when.

452.335. 1. In a proceeding for nonretroactive invalidity, dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order to either spouse, but only if it finds that the spouse seeking maintenance:

(1) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(2) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

2. The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(1) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(2) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) The comparative earning capacity of each spouse;

(4) The standard of living established during the marriage;

(5) The obligations and assets, including the marital property apportioned to him and the separate property of each party;

(6) The duration of the marriage;

(7) The age, and the physical and emotional condition of the spouse seeking maintenance;

(8) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance;

(9) The conduct of the parties during the marriage; and

(10) Any other relevant factors.

3. The maintenance order shall state if it is modifiable or nonmodifiable. The court may order maintenance which includes a termination date. Unless the maintenance order which includes a termination date is nonmodifiable, the court may order the maintenance decreased, increased, terminated, extended, or otherwise modified based upon a substantial and continuing change of circumstances which occurred prior to the termination date of the original order.

Child support, how allocated--factors to be considered--abatement or termination of support, when--support after age eighteen, when --public policy of state--payments may be made directly to child, when--child support guidelines, rebuttable presumption, use of guidelines, when--retroactivity--obligation terminated, how.

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

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the division of child support enforcement may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454, RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454, RSMo.

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

- (1) Dies;
- (2) Marries;
- (3) Enters active duty in the military;
- (4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;
- (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply; or
- (6) Reaches age twenty-two, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-second birthday for reasons provided by subsection 4 of this section.

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

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer

semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-two, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any junior college, community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a learning disability, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

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

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending substantially equal time with both parents. Not later than October 1, 1998, the Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every three years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption

in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the division of child support enforcement establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

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

(1) Provided that the child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-two if the child support order does not specifically require payment of child support beyond age twenty-two for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the division of child support enforcement;

(3) The obligation shall be deemed terminated without further judicial or administrative process, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the division of child support enforcement, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo, and shall proceed to hear and adjudicate such motion as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such motion to modify.

12. The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection 11 of this section on both the obligor and obligee parents. The supreme court may

promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.

Obligor may request affidavit, when--cause of action for failure to execute, when--false affidavit, penalty.

452.341. 1. Any person obligated under a judgment or order of a court to make installment payments of child support or spousal support may request from the person entitled to such support payments an affidavit attesting to the fact that the obligor is current in such support payments and that there are, on the date that the request is made, no installment payments due and unpaid. Upon such request by an obligor, any person entitled to child support or spousal support shall execute an affidavit as required by this section.

2. No affidavit shall be required to be executed if any installment of the obligor's support obligation is due or unpaid on the date that the request is made. If, however, any obligor who is current in payment of support obligations makes a request for a statement of that fact under this section and the person entitled to such support payment refuses or fails to execute the affidavit required by this section within ten days of the request, the obligor shall have a cause of action against such person for any damages caused by such failure or refusal and may, in addition to such cause of action, petition a court of competent jurisdiction to order the person entitled to the support obligation to execute the affidavit. Any person who executes a false affidavit under this section commits a class A misdemeanor as provided in section 575.050, RSMo.

Summary of expenses paid on behalf of child, required when.

452.342. The court which issued a judgment or order of child support payments may, upon petition of the party obligated to make the payments and upon good cause shown, order the custodial parent to furnish the party having the support obligation with a regular summary of expenses paid by the custodial parent on behalf of the child. The court may prescribe the form and substance of the summary.

All judgments and orders shall contain the parties' Social Security numbers.

452.343. Notwithstanding any provision of law to the contrary, every judgment or order issued in this state which, in whole or in part, affects* child custody, child support, visitation, modification of custody, support or visitation, or is issued pursuant to section 454.470 or 454.475, RSMo, shall contain the Social Security number of the parties to the action which gives rise to such judgment or order.

Support obligations, bond or other guarantee to secure, when required, procedure--default, effect of.

452.344. 1. Upon entry of an order for support or division of property under this chapter or otherwise, or at any time the court finds any of the elements which constitute grounds for attachment under section 521.010, RSMo, the court, by its own motion or that of a party or assignee of a party, may require that the obligor provide sufficient security, bond or other guarantee to secure the obligation to make support payments or to secure the division of property, conditioned that the obligor will pay all support payments as they come due, together with interest thereon, and will abide the orders of the court with respect to division of property.

2. The bond shall be filed with the clerk of the circuit court in the county where the order for support or division of property is filed, and the bond may be entered into before the clerk, if the court or judge entering the order for support or division of property shall first approve of the security.

3. The court, upon default in the condition of the bond, shall enter judgment against the obligors on the bond, according to the circumstances of the case, including interest or damages, and may award execution thereon, or otherwise enforce such judgment, according to the rules and practice of the court.

Maintenance or support payments to circuit clerk or family support payment center, when--procedure--duties of parties--failure to pay, circuit clerk duties.

452.345. 1. As used in sections 452.345 to 452.350, the term "IV-D case" shall mean a case in which support rights have been assigned to the state of Missouri or where the division of child support enforcement is providing support enforcement services pursuant to section 454.400, RSMo.

2. At any time the court, upon its own motion, may, or upon the motion of either party shall, order that maintenance or support payments be made to the circuit clerk as trustee for remittance to the person entitled to receive the payments. The circuit clerk shall remit such support payments to the person entitled to receive the payments within three working days of receipt by the circuit clerk. Circuit clerks shall deposit all receipts no later than the next working day after receipt. Payment by a nonguaranteed negotiable financial instrument occurs when the instrument has cleared the depository institution and has been credited to the trust account. Effective October 1, 1999, at any time the court may upon its own motion, or shall upon the motion of either party, order that support payments as required by section 454.530, RSMo, be made to the family support payment center established in section 454.530, RSMo, as trustee for remittance to the person entitled to receive the payments. However, in no case shall the court order payments to be made to the payment center if the division of child support enforcement notifies the court that such payments shall not be made to the center. In such cases, payments shall be made to the clerk as trustee until the division notifies the court that payments shall be directed to the payment center. Further, with the agreement of the division, the court may order payments to be made to the payment center prior to October 1, 1999.

3. The circuit clerk shall maintain records in the automated child support system which list the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order. Nothing in this section shall prohibit the division of child support enforcement from entering information in the records of the automated child support system, as provided for in chapter 454, RSMo.

4. The parties affected by the order shall inform the circuit clerk or the payment center established in section 454.530, RSMo, of any change of address or of other conditions that may affect the administration of the order.

5. For any case in which an order for support or maintenance was entered prior to January 1, 1994, which has not been modified subsequent to that date, except a IV-D case, if a party becomes delinquent in maintenance or support payments in an amount equal to one month's total support obligation, the provisions of this subsection shall apply. If the circuit clerk has been appointed trustee under subsection 2 of this section, or if the person entitled to receive the payments files with the clerk an affidavit stating the particulars of the obligor's noncompliance, the circuit clerk shall send by regular mail notice of the delinquency to the obligor. This notice shall advise the obligor of the delinquency, shall state the amount of the obligation, and shall advise that the obligor's income is subject to withholding for repayment of the delinquency and for payment of current support, as provided in section 452.350. For such cases, the circuit clerk shall, in addition to the notice to the obligor, send by regular mail a notice to the obligee. This notice shall state the amount of the delinquency and shall advise the obligee that income withholding, pursuant to section 452.350, is available for collection of support delinquencies and current support, and if the support order includes amounts for child support, that support enforcement services, pursuant to section 454.425, RSMo, are available through the Missouri division of child support enforcement of the department of social services.

Medical assistance documentation provided, when.

452.346. Upon written request of a parent of a child, as defined in section 452.302, who is receiving medical assistance pursuant to section 208.151, RSMo, the division of family services shall provide such parent with documentation that allows the child to obtain medical assistance. This section shall not apply to parents of children in the custody of a public agency.

Notice of a child support establishment or modification proceeding, when--copy of the order provided, when.

452.347. In any proceeding before a court where child support may be established or modified for an applicant or recipient of child support services pursuant to chapter 454:

(1) The applicant or recipient of child support enforcement services shall be provided by any other party with notice pursuant to Rule 41 of the Missouri rules of civil procedures of all proceedings in which support obligations may be established or modified. Notice to an attorney representing a party is deemed notice on the party for purposes of this section; and

(2) A copy of any order establishing or modifying a child support obligation, or an order denying a modification shall be mailed to the division of child support enforcement by the court within fourteen days of issuance of such order.

Withholding of income, voluntary or court may order, when, when effective--hearing, when--employer, duties, liabilities, fee --discharge or discipline of employee because of a withholding notice prohibited, penalty--civil contempt proceeding authorized --amendment, termination and priorities of withholdings.

452.350. 1. Until January 1, 1994, except for orders entered or modified in IV-D cases, each order for child support or maintenance entered or modified by the court pursuant to the authority of this chapter, or otherwise, shall include a provision notifying the person obligated to pay such support or maintenance that, upon application by the obligee or the Missouri division of child support enforcement of the department of social services, the obligor's wages or other income shall be subject to withholding without further notice if the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. The order shall also contain provisions notifying the obligor that:

(1) The withholding shall be for the current month's maintenance and support; and

(2) The withholding shall include an additional amount equal to fifty percent of one month's child support and maintenance to defray delinquent child support and maintenance, which additional withholding shall continue until the delinquency is paid in full.

2. For all orders entered or modified in IV-D cases, and effective January 1, 1994, for every order for child support or maintenance entered or modified by the court pursuant to the authority of this chapter, or otherwise, income withholding pursuant to this section shall be initiated on the effective date of the order, except that such withholding shall not commence with the effective date of the order in any case where:

(1) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding must be based on, at least, a written determination and an explanation by the court that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative arrangement.

If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section without further exception on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. Such withholding shall be initiated in the manner provided in subsection 4 of this section. All IV-D orders entered or modified by the court shall contain a provision notifying the obligor that he or she shall notify the division of child support enforcement regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in

access to such insurance coverage. Any income withheld pursuant to this section for a support order initially entered on or after October 1, 1999, shall be paid to the payment center pursuant to section 454.530, RSMo. Any order of the court entered on or after October 1, 1999, establishing the withholding for a support order as defined in section 454.460, RSMo, or notice from the clerk issued on or after October 1, 1999, pursuant to this section for a support order shall require payment to the payment center pursuant to section 454.530, RSMo.

3. The provisions of section 432.030, RSMo, to the contrary notwithstanding, if income withholding has not been initiated on the effective date of the initial or modified order, the obligated party may execute a voluntary income assignment at any time, which assignment shall be filed with the court and shall take effect after service on the employer or other payor.

4. The circuit clerk, upon application of the obligee or the division of child support enforcement, shall send, by certified mail, return receipt requested, a written notice to the employer or other payor listed on the application when the obligated party is subject to withholding pursuant to the child support order or subsection 2 of this section. For orders entered or modified in cases known by the circuit clerk to be IV-D cases in which income withholding is to be initiated on the effective date of the order, and effective January 1, 1994, for all orders entered or modified by the court in which income withholding is to be initiated on the effective date of the order, the circuit clerk shall send such notice to the employer or other payor in the manner provided by this section at the time the order is entered without application of any party when an employer or other payor is identified to the circuit clerk by inclusion in the pleadings pursuant to section 452.312, or otherwise. The notice of income withholding shall be prepared by the person entitled to support pursuant to the order, or the legal representative of that person, on a form prescribed by the court, and shall be presented to the clerk of the court at the time the order of support is entered. The notice shall direct the employer or other payor to withhold each month an amount equal to one month's child support and maintenance until further notice from the court. In the event of a delinquency in child support or maintenance payments in an amount equal to one month's total support obligation, the notice further shall direct the employer or other payor to withhold each month an additional amount equal to fifty percent of one month's child support and maintenance until the support delinquency is paid in full. The notice shall also include a statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding pursuant to federal or state law and notify the obligor that the obligor may request a hearing and related information pursuant to this section. The notice shall contain the Social Security number of the obligor if available. The circuit clerk shall send a copy of this notice by regular mail to the last known address of the obligated party. A notice issued pursuant to this section shall be binding on the employer or other payor, and successor employers and payors, two weeks after mailing, and shall continue until further order of the court or the division of child support enforcement. If the notice does not contain the Social Security number of the obligor, the employer or other payor shall not be liable for withholding from the incorrect obligor. The obligated party may, within that two-week period, request a hearing on the issue of whether the withholding should take effect. The withholding shall not be held in abeyance pending the outcome of the hearing. The obligor may not obtain relief from the withholding by paying overdue support, if any. The only basis for contesting the withholding is a mistake of fact. For the purpose of this section, "mistake of fact" shall mean an error in the amount of arrearages, if applicable, or an error as to the identity of the obligor. The court shall hold its hearing, enter its order disposing of all issues disputed by the obligated party, and notify the obligated party and the employer or other payor, within forty-five days of the date on which the withholding notice was sent to the employer.

5. For each payment the employer may charge a fee not to exceed six dollars per month, which shall be deducted from each obligor's moneys, income or periodic earnings, in addition to the amount deducted to meet the support or maintenance obligation subject to the limitations contained in the federal Consumer Credit Protection Act (15 U.S.C. 1673).

6. Upon termination of the obligor's employment with an employer upon whom a withholding notice has been served, the employer shall so notify the court in writing. The employer shall also inform the court, in writing, as to the last known address of the obligor and the name and address of the obligor's new employer, if known.

7. Amounts withheld by the employer or other payor shall be transmitted, in accordance with the notice, within seven business days of the date that such amounts were payable to the obligated party. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payor shall, along with the amounts transmitted, provide the date each amount was withheld from each obligor. If the employer or other payor is withholding amounts for more than one order, the employer or other payor may combine all such withholdings that are payable to the same circuit clerk or the family support payment center and transmit them as one payment, together with a separate list identifying the cases to which they apply. The cases shall be identified by court case number, name of obligor, the obligor's Social Security number, the IV-D case number, if any, the amount withheld for each obligor, and the withholding date or dates for each obligor, to the extent that such information is known to the employer or other payor. An employer or other payor who fails to honor a withholding notice pursuant to this section may be held in contempt of court and is liable to the obligee for the amount that should have been withheld. Compliance by an employer or other payor with the withholding notice operates as a discharge of liability to the obligor as to that portion of the obligor's periodic earnings or other income so affected.

8. As used in this section, the term "employer" includes the state and its political subdivisions.

9. An employer shall not discharge or otherwise discipline, or refuse to hire, an employee as a result of a withholding notice issued pursuant to this section. Any obligor who is aggrieved as a result of a violation of this subsection may bring a civil contempt proceeding against the employer by filing an appropriate motion in the cause of action from which the withholding notice issued. If the court finds that the employer discharged, disciplined, or refused to hire the obligor as a result of the withholding notice, the court may order the employer to reinstate or hire the obligor, or rescind any wrongful disciplinary action. If, after the entry of such an order, the employer refuses without good cause to comply with the court's order, or if the employer fails to comply with the withholding notice, the court may, after notice to the employer and a hearing, impose a fine against the employer, not to exceed five hundred dollars. Proceeds of any such fine shall be distributed by the court to the county general revenue fund.

10. A withholding entered pursuant to this section may, upon motion of a party and for good cause shown, be amended by the court. The clerk shall notify the employer of the amendment in the manner provided for in subsection 4 of this section.

11. The court, upon the motion of obligor and for good cause shown, may terminate the withholding, except that the withholding shall not be terminated for the sole reason that the obligor has fully paid past due child support and maintenance.

12. A withholding effected pursuant to this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 454.505, RSMo, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, RSMo, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, delinquencies shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, RSMo, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

13. The remedy provided by this section applies to child support and maintenance orders entered prior to August 13, 1986, notwithstanding the absence of the notice to the obligor provided for in subsection 1 of this section, provided that prior notice from the circuit clerk to the obligor in the manner prescribed in subsection 5 of section 452.345 is given.

14. Notwithstanding any provisions of this section to the contrary, in a case in which support rights have been assigned to the state or in which the division of child support enforcement is providing support enforcement services pursuant to section 454.425, RSMo, the director of the division of child support enforcement may amend or terminate a withholding order issued pursuant to this section, as provided in this subsection without further action of the court. The director may amend or terminate a withholding order and issue an administrative withholding order pursuant to section 454.505, RSMo, when the director determines that children for whom the support order applies are no longer entitled to support pursuant to section 452.340, when the support obligation otherwise ends and all arrearages are paid, when the support obligation is modified pursuant to section 454.500, RSMo, or when the director enters an order that is approved by the court pursuant to section 454.496, RSMo. The director shall notify the employer and the circuit clerk of such amendment or termination. The director's administrative withholding order or withholding termination order shall preempt and supersede any previous judicial withholding order issued pursuant to this or any other section.

15. For the purpose of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program and interest.

16. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the court shall use or require the use of such notice.

Allocation of cost of action and attorney fees by court--actions for failure to pay child support, reasonable costs and attorney fees to be paid by obligor, when--definitions.

452.355. 1. Unless otherwise indicated, the court from time to time after considering all relevant factors including the financial resources of both parties, the merits of the case and the actions of the parties during the pendency of the action, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding pursuant to sections 452.300 to 452.415 and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding and after entry of a final judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in the attorney's name.

2. In any proceeding in which the failure to pay child support pursuant to a temporary order or final judgment is an issue, if the court finds that the obligor has failed, without good cause, to comply with such order or decree to pay the child support, the court shall order the obligor, if requested and for good cause shown, to pay a reasonable amount for the cost of the suit to the obligee, including reasonable sums for legal services. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

3. For purposes of this section, an "obligor" is a person owing a duty of support and an "obligee" is a person to whom a duty of support is owed.

4. For purposes of this section, "good cause" includes any substantial reason why the obligor is unable to pay the child support as ordered. Good cause does not exist if the obligor purposely maintains his inability to pay.

Judgment of dissolution or legal separation final when entered --appeal, effect of--distribution of property final--conversion of judgment of legal separation to dissolution, when--notice, to whom.

452.360. 1. A judgment of dissolution of marriage or of legal separation is final when entered, subject to the right of appeal. An appeal from a judgment of dissolution that does not challenge the finding that the marriage is irretrievably broken does not delay the finality of that provision of the judgment which dissolves the marriage beyond the time for appealing from that provision, so that either of the parties may remarry pending appeal.

2. The court's judgment of dissolution of marriage or legal separation as it affects distribution of marital property shall be a final judgment not subject to modification.

3. No earlier than ninety days after entry of a judgment of legal separation, on motion of either party, the court may convert the judgment of legal separation to a judgment of dissolution of marriage.

4. On motion of both parties, the court shall set aside a judgment of legal separation.

5. The circuit clerk shall give notice of the entry of a judgment of legal separation or dissolution to the department of social services.

Party failing to comply with decree, effect of.

452.365. If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the other party to make payments for support or maintenance or to permit visitation is not suspended but he may move the court to grant an appropriate order.

Modification of judgment as to maintenance or support, when --termination, when--rights of state when an assignment of support has been made--court to have continuing jurisdiction, duties of clerk, clerk to be "appropriate agent", when--severance of responsive pleading.

452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the division of family services on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy

Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the division of child support enforcement.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. 666(a)(9)(C), the circuit clerk shall be considered the "appropriate agent" to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the division of child support enforcement by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the division of child support enforcement as provided in section 454.400, RSMo, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.

Declining jurisdiction in a modification proceeding, when.

452.371. 1. Notwithstanding the provisions of subsection 1 of section 452.455, RSMo, or subsection 6 of section 452.370, RSMo, to the contrary, the court with jurisdiction may decline to exercise jurisdiction in any modification proceeding if such court finds that exercise of its jurisdiction would be clearly inconvenient to either party to the proceeding. The court shall consider the following factors in determining whether exercise of its jurisdiction would be clearly inconvenient:

- (1) Place of residence of the parties;
- (2) Location of witnesses; and
- (3) The availability to either party of another more convenient court with jurisdiction.

2. A finding that a court is a clearly inconvenient forum pursuant to subsection 1 of this section may be made on the court's own motion or on the motion of either party to the proceeding.

3. If the court finds that it is an inconvenient forum and a court of another county is a more appropriate forum, and such court will accept jurisdiction of the case, the original court shall order a change of venue to the more appropriate forum and state the reasons for such change. The clerk shall transmit the original papers with a transcript of all docket entries to the clerk of the court to which the removal is ordered or the court may order the clerk to prepare a full transcript of the record and proceeding in the case, and transmit the same, duly certified with all the original papers in the civil action but not forming part of the record to the clerk of the court to which the removal is ordered.

Mandatory educational sessions, when--alternative dispute resolution, when.

452.372. 1. When a person files a petition for dissolution of marriage or legal separation and the custody or visitation of a minor child is involved, the court shall order all parties to the action to attend educational sessions pursuant to section 452.605. Parties to a modification proceeding who

previously have attended educational sessions pursuant to section 452.605 may also be required to attend such educational sessions.

2. In cases involving custody or visitation issues, the court may, except for good cause shown or as provided in subsection 3 of this section, order the parties to the action to participate in an alternative dispute resolution program pursuant to supreme court rule to resolve any issues in dispute or may set a hearing on the matter. As used in this section, "good cause" includes, but is not limited to, uncontested custody or temporary physical custody cases, or a finding of domestic violence or abuse as determined by a court with jurisdiction after all parties have received notice and an opportunity to be heard, but does not mean the absence of qualified mediators.

3. Any alternative dispute resolution program ordered by the court pursuant to this section may be paid for by the parties in a proportion to be determined by the court, the cost of which shall be reasonable and customary for the circuit in which the program is ordered, and shall:

- (1) Not be binding on the parties;
- (2) Not be ordered or used for contempt proceedings;
- (3) Not be ordered or utilized for child support issues; and
- (4) Not be used to modify a prior order of the court, except by agreement of the parties.

4. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have a rule in effect allowing, but not requiring, each circuit to establish an alternative dispute resolution program for proceedings involving issues of custody and temporary physical custody relating to the child.

Custody--definitions--factors determining custody--prohibited, when--public policy of state--custody options plan, when required--findings required, when--exchange of information and right to certain records, failure to disclose--fees, costs assessed, when--joint custody not to preclude child support--support, how determined--domestic violence or abuse, specific findings.

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

- (1) "Custody", means joint legal custody, sole legal custody, joint physical custody or sole physical custody or any combination thereof;
- (2) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities, and authority;
- (3) "Joint physical custody" means an order awarding each of the parents significant, but not necessarily equal, periods of time during which a child resides with or is under the care and supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent, continuing and meaningful contact with both parents;
- (4) "Third-party custody" means a third party designated as a legal and physical custodian pursuant to subdivision (5) of subsection 5 of this section.

2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

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

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

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

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

(5) The child's adjustment to the child's home, school, and community;

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

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

(8) The wishes of a child as to the child's custodian.

The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such child or children.

3. In any court proceedings relating to custody of a child, the court shall not award custody or unsupervised visitation of a child to a parent if such parent or any person residing with such parent has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for a* child if the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection.

4. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child, and that it is the public policy of this state to encourage parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. In order to effectuate these policies, the court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child.

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

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

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

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

(4) Sole custody to either parent; or

(5) Third-party custody or visitation:

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

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

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

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

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or any child has been the victim of domestic violence, as defined in section 455.200, RSMo, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

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

and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court costs associated with obtaining the requested information.

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

13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, and any other children for whom such parent has custodial or visitation rights from any further harm.

Noncustodial parent's right to receive child's school progress reports--administrative fees to be set by school, when--exclusion of address of custodial parent, when.

452.376. 1. Unless a noncustodial parent has been denied visitation rights under section 452.400, such noncustodial parent or any parent who has joint custody of a child shall, upon request and payment of an administrative fee sufficient to cover the cost, receive any deficiency slips, report cards or pertinent progress reports regarding that child's progress in school. If a noncustodial parent has been granted restricted or supervised visitation because the court has found that the custodial parent or the child has been the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, by the noncustodial parent, the court may order that the reports and records made available pursuant to this subsection not include the address of the custodial parent or the child.

2. School districts shall annually set an administrative fee estimated to cover the costs of preparing, copying and mailing the student information required to be provided pursuant to this section.

Relocation of child by parent for more than ninety days, required procedure--violation, effect--notice of relocation of parent, required procedure.

452.377. 1. For purposes of this section and section 452.375, "relocate" or "relocation" means a change in the principal residence of a child for a period of ninety days or more, but does not include a temporary absence from the principal residence.

2. Notice of a proposed relocation of the residence of the child, or any party entitled to custody or visitation of the child, shall be given in writing by certified mail, return receipt requested, to any party with custody or visitation rights. Absent exigent circumstances as determined by a court with jurisdiction, written notice shall be provided at least sixty days in advance of the proposed relocation. The notice of the proposed relocation shall include the following information:

(1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;

(2) The home telephone number of the new residence, if known;

(3) The date of the intended move or proposed relocation;

(4) A brief statement of the specific reasons for the proposed relocation of a child, if applicable; and

(5) A proposal for a revised schedule of custody or visitation with the child, if applicable.

3. A party required to give notice of a proposed relocation pursuant to subsection 2 of this section has a continuing duty to provide a change in or addition to the information required by this section as soon as such information becomes known.

4. In exceptional circumstances where the court makes a finding that the health or safety of any adult or child would be unreasonably placed at risk by the disclosure of the required identifying information concerning a proposed relocation of the child, the court may order that:

(1) The specific residence address and telephone number of the child, parent or person, and other identifying information shall not be disclosed in the pleadings, notice, other documents filed in the proceeding or the final order except for an in camera disclosure;

(2) The notice requirements provided by this section shall be waived to the extent necessary to protect the health or safety of a child or any adult; or

(3) Any other remedial action the court considers necessary to facilitate the legitimate needs of the parties and the best interest of the child.

5. The court shall consider a failure to provide notice of a proposed relocation of a child as:

(1) A factor in determining whether custody and visitation should be modified;

(2) A basis for ordering the return of the child if the relocation occurs without notice; and

(3) Sufficient cause to order the party seeking to relocate the child to pay reasonable expenses and attorneys fees incurred by the party objecting to the relocation.

6. If the parties agree to a revised schedule of custody and visitation for the child, which includes a parenting plan, they may submit the terms of such agreement to the court with a written affidavit signed by all parties with custody or visitation assenting to the terms of the agreement, and the court may order the revised parenting plan and applicable visitation schedule without a hearing.

7. The residence of the child may be relocated sixty days after providing notice, as required by this section, unless a parent files a motion seeking an order to prevent the relocation within thirty days after receipt of such notice. Such motion shall be accompanied by an affidavit setting forth the specific factual basis supporting a prohibition of the relocation. The person seeking relocation shall file a response to the motion within fourteen days, unless extended by the court for good cause, and include a counter-affidavit setting forth the facts in support of the relocation as well as a proposed revised parenting plan for the child.

8. If relocation of the child is proposed, a third party entitled by court order to legal custody of or visitation with a child and who is not a parent may file a cause of action to obtain a revised schedule of legal custody or visitation, but shall not prevent a relocation.

9. The party seeking to relocate shall have the burden of proving that the proposed relocation is made in good faith and is in the best interest of the child.

10. If relocation is permitted:

(1) The court shall order contact with the nonrelocating party including custody or visitation and telephone access sufficient to assure that the child has frequent, continuing and meaningful contact with the nonrelocating party unless the child's best interest warrants* otherwise; and

(2) The court shall specify how the transportation costs will be allocated between the parties and adjust the child support, as appropriate, considering the costs of transportation.

11. After August 28, 1998, every court order establishing or modifying custody or visitation shall include the following language: "Absent exigent circumstances as determined by a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by certified mail, return receipt requested, and at least sixty days prior to the proposed relocation, each party to this action of any proposed relocation of the principal residence of the child, including the following information:

- (1) The intended new residence, including the specific address and mailing address, if known, and if not known, the city;
- (2) The home telephone number of the new residence, if known;
- (3) The date of the intended move or proposed relocation;
- (4) A brief statement of the specific reasons for the proposed relocation of the child; and
- (5) A proposal for a revised schedule of custody or visitation with the child.

Your obligation to provide this information to each party continues as long as you or any other party by virtue of this order is entitled to custody of a child covered by this order. Your failure to obey the order of this court regarding the proposed relocation may result in further litigation to enforce such order, including contempt of court. In addition, your failure to notify a party of a relocation of the child may be considered in a proceeding to modify custody or visitation with the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the required notice."

12. Violation of the provisions of this section or a court order under this section may be deemed a change of circumstance under section 452.410, allowing the court to modify the prior custody decree. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

13. Any party who objects in good faith to the relocation of a child's principal** residence shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate.

Temporary custody, motion for--dismissal of action, effect of.

452.380. 1. A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit. The court may award temporary custody after a hearing or, if there is no objection, solely on the basis of the affidavits.

2. If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child require that a custody decree be issued.

Child's wishes as to custodian, how determined.

452.385. The court may interview the child in chambers to ascertain the child's wishes as to his custodian and relevant matters within his knowledge. The court shall permit counsel to be present at the interview and to participate therein. The court shall cause a record of the interview to be made and to be made part of the record in the case.

Investigation and report on custodial arrangements for a child--how conducted--report due, when--material to be available to counsel and parties.

452.390. 1. The court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by the county welfare office, the county juvenile officer, or any other competent person.

2. In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian, but the child's consent must be obtained if he has reached the age of sixteen, unless the court finds that he lacks mental capacity to consent.

3. At least ten days prior to the hearing the investigator shall furnish his report to counsel and to any party not represented by counsel. No one else, including the court, shall be entitled thereto prior to the hearing. The investigator shall make available to counsel and to any party not represented by counsel an investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection 2, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call as witnesses the investigator and any person whom the investigator has consulted.

Custody proceedings, priority of--judge to determine law and fact--secrecy, when.

452.395. 1. Custody proceedings shall receive priority in being set for hearing.

2. The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the particular case.

3. If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record.

Visitation rights, awarded when--history of domestic violence, consideration of--prohibited, when--modification of, when--supervised visitation defined--noncompliance with order, effect of--family access motions, procedure, penalty for violation--attorney fees and costs assessed, when.

452.400. 1. A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his or her emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights to the child and any other children for whom such parent has custodial or visitation rights. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child. The court shall not grant visitation to the parent not granted custody if such parent or any person residing with such parent has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or * section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for a** child if the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection. The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence, and any other children for whom the parent has custodial or visitation rights from any further harm. The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best protect the child or the parent or other family or household member who is the victim of domestic violence, or any other child for whom the parent has custodial or visitation rights from any further harm.

2. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his or her emotional development. In any proceeding modifying visitation rights, the court shall not grant unsupervised visitation to a parent if the parent or any person residing with such parent has been

found guilty of or pled guilty to a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the placement of a** child in a home in which the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection. When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3. The court shall mandate compliance with its order by all parties to the action, including parents, children and third parties. In the event of noncompliance, the aggrieved person may file a verified motion for contempt. If custody, visitation or third-party custody is denied or interfered with by a parent or third party without good cause, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the judgment of dissolution or legal separation. The state courts administrator shall develop a simple form for pro se motions to the aggrieved person, which shall be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action in the circuit court.

4. Within five court days after the filing of the family access motion pursuant to subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable state law, and applicable local or supreme court rules. A copy of the motion shall be personally served upon the respondent by personal process server as provided by law or by any sheriff. Such service shall be served at the earliest time and shall take priority over service in other civil actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The motion shall contain the following statement in boldface type:

"PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

(1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

(2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

(3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST THE VIOLATOR;

(4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

(5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND THE CHILD; AND

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

5. If an alternative dispute resolution program is available pursuant to section 452.372, the clerk shall also provide information to all parties on the availability of any such services, and within fourteen days of the date of service, the court may schedule alternative dispute resolution.

6. Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited to:

(1) A compensatory period of visitation, custody or third-party custody at a time convenient for the aggrieved party not less than the period of time denied;

(2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;

(3) Assessment of a fine of up to five hundred dollars against the violator payable to the aggrieved party;

(4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders; and

(5) Ordering the violator to pay the cost of counseling to reestablish the parent-child relationship between the aggrieved party and the child.

7. The reasonable expenses incurred as a result of denial or interference with custody or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or third-party custody, shall be assessed, if requested and for good cause, against the parent or party who unreasonably denies or interferes with visitation, custody or third-party custody. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

8. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.

9. Motions filed pursuant to this section shall not be deemed an independent civil action from the original action pursuant to which the judgment or order sought to be enforced was entered.

Grandparent's visitation rights granted, when, terminated, when--guardian ad litem appointed, when--attorney fees and costs assessed, when.

452.402. 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when visitation has been denied to them; or

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation to a parent of the deceased parent of the child; or

(3) The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition; and

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision.

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child. The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

Grandparent denied visitation, court may order mediation upon written request, purpose--costs--venue--termination of mediation, when.

452.403. 1. Upon the written request of a grandparent denied visitation with a grandchild, the associate division of the circuit court may order mediation with any party who has custody or visitation rights with the minor child and appoint a mediator. Such written request need not follow the rules of civil procedure and need not be written or filed by an attorney.

2. As used in this section, "mediation" is the process by which a neutral mediator appointed by the court assists the parties in reaching a mutually acceptable voluntary and consensual agreement in the best interests of the child as to issues of child care and visitation. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of common interest and finding points of agreement. An agreement reached by the parties shall be based on the decisions of the parties and not the decisions of the mediator. The agreement reached may resolve all or only some of the disputed issues.

3. At any time after the third mediation session, either party may terminate mediation ordered pursuant to this section.

4. The costs of the mediation shall be paid by the grandparent requesting the mediation order.

5. The venue shall be in the county where the child resides.

Neutral location for exchange of children, when.

452.404. To ensure compliance with the parenting plans or court orders, the court may require parents, or parents may agree, to bring the minor children to a neutral location for the exchange pursuant to such plans or orders. Such location may include a center specifically established for such exchanges or an existing location suitable for such exchanges. A neutral third party may be present at each exchange to provide an accurate documentation of the compliance or

noncompliance with the ordered exchange.

Custodian to determine child's upbringing, exception--continued supervision, when.

452.405. 1. Except as otherwise ordered by the court or agreed by the parties in writing at the time of the custody decree, the legal custodian may determine the child's upbringing, including his education, health care, and religious training, unless the court after hearing finds, upon motion by the parent without legal custody, that in the absence of a specific limitation of the legal custodian's authority the child's physical health would be endangered or his emotional development impaired.

2. The legal custodian shall not exercise legal custody in such a way as to significantly and detrimentally impact the other parent's visitation or custody rights.

3. The court may order the county welfare office or the county juvenile officer to exercise continuing supervision over the case.

Custody, decree, modification of, when.

452.410. 1. Except as provided in subsection 2 of this section, the court shall not modify a prior custody decree unless it has jurisdiction under the provisions of section 452.450 and it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or his custodian and that the modification is necessary to serve the best interests of the child. Notwithstanding any other provision of this section or sections 452.375 and 452.400, any custody order entered by any court in this state or any other state prior to August 13, 1984, may, subject to jurisdictional requirements, be modified to allow for joint custody in accordance with section 452.375, without any further showing.

2. If either parent files a motion to modify an award of joint legal custody or joint physical custody, each party shall be entitled to a change of judge as provided by supreme court rule.

When sections 452.300 to 452.415 shall apply.

452.415. 1. Sections 452.300 to 452.415 apply to all proceedings commenced on or after January 1, 1974.

2. Sections 452.300 to 452.415 apply to all pending actions and proceedings commenced prior to January 1, 1974, with respect to issues on which a judgment has not been entered. Pending actions for divorce or separation are deemed to have been commenced on the basis of irretrievable breakdown. Evidence adduced after January 1, 1974, shall be in compliance with sections 452.300 to 452.415.

3. Sections 452.300 to 452.415 apply to all proceedings commenced after January 1, 1974, for the modification of a judgment or order entered prior to January 1, 1974.

4. In any action or proceeding in which an appeal was pending or a new trial was ordered prior to January 1, 1974, the law in effect at the time of the order sustaining the appeal or the new trial governs the appeal, the new trial, and any subsequent trial or appeal.

Parent's change in income due to military service, effect on order of child support--director of division of child support enforcement, duties.

452.416. 1. Notwithstanding any other provision of law to the contrary, whenever a parent in emergency military service has a change in income due to such military service, such change in income shall be considered a change in circumstances so substantial and continuing as to make the terms of any order or judgment for child support or visitation unreasonable.

2. Upon receipt of a notarized letter from the commanding officer of a noncustodial parent in emergency military service which contains the date of the commencement of emergency military service and the compensation of the parent in emergency military service, the director of the

division of child support enforcement shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425, RSMo.

3. Upon return from emergency military service the parent shall notify the director of the division of child support enforcement who shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425, RSMo.

4. As used in this section, the term "emergency military service" means that the parent is a member of a reserve unit or national guard unit which is called into active military duty for a period of more than thirty days.

Proceedings to be heard by circuit judge--exception.

452.420. All proceedings authorized in chapter 452 to be maintained in circuit court shall be heard by circuit judges, except that said proceedings may be heard by an associate circuit judge if he is assigned to hear such case or class of cases or if he is transferred to hear such case or class of cases pursuant to other provisions of law or section 6 of article V of the constitution.

Guardian ad litem appointed, when, duties--disqualification, when--fees--volunteer advocates, expenses.

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. Disqualification of a guardian ad litem shall be ordered in any legal proceeding only pursuant to this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem appointed under this subsection in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.

3. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

(2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;

(3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

4. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

5. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may:

(1) Issue a direct payment order to the parties. If a party fails to comply with the court's direct payment order, the court may find such party to be in contempt of court; or

(2) Award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

6. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

Sheriff or law enforcement to enforce custody and visitation orders, when--limitations.

452.425. Any court order for the custody of, or visitation with, a child may include a provision that the sheriff or other law enforcement officer shall enforce the rights of any person to custody or visitation unless the court issues a subsequent order pursuant to chapter* 210, 211, 452 or 455, RSMo, to limit or deny the custody of, or visitations with, the child. Such sheriff or law enforcement officer shall not remove a child from a person who has actual physical custody of the child unless such sheriff or officer is shown a court order or judgment which clearly and convincingly verifies that such person is not entitled to the actual physical custody of the child, and there are not other exigent circumstances that would give the sheriff or officer reasonable suspicion to believe that the child would be harmed or that the court order presented to the sheriff or officer may not be valid.

Short title.

452.440. Sections 452.440 to 452.550 may be cited as the "Uniform Child Custody Jurisdiction Act".

Definitions.

452.445. As used in sections 452.440 to 452.550:

(1) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights. This term does not include a decision relating to child support or any other monetary obligation of any person; but the court shall have the right in any custody determination where jurisdiction is had pursuant to section 452.460 and where it is in the best interest of the child to adjudicate the issue of child support;

(2) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, legal separation, separate maintenance, appointment of a guardian of the person, child neglect or abandonment, but excluding actions for violation of a state law or municipal ordinance;

(3) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(4) "Home state" means the state in which, immediately preceding the filing of custody proceeding, the child lived with his parents, a parent, an institution; or a person acting as parent, for at* least six consecutive months; or, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(5) "Initial decree" means the first custody decree concerning a particular child;

(6) "Litigant" means a person, including a parent, grandparent, or step-parent, who claims a right to custody or visitation with respect to a child.

Jurisdiction.

452.450. 1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(1) This state:

(a) Is the home state of the child at the time of commencement of the proceeding; or

(b) Had been the child's home state within six months before commencement of the proceeding and the child is absent from this state for any reason, and a parent or person acting as parent continues to live in this state; or

(2) It is in the best interest of the child that a court of this state assume jurisdiction because:

(a) The child and his parents, or the child and at least one litigant, have a significant connection with this state; and

(b) There is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(3) The child is physically present in this state and:

(a) The child has been abandoned; or

(b) It is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse, or is otherwise being neglected; or

(4) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with subdivision (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and it is in the best interest of the child that this court assume jurisdiction.

2. Except as provided in subdivisions (3) and (4) of subsection 1 of this section, physical presence of the child, or of the child and one of the litigants, in this state is not sufficient alone to confer jurisdiction on a court of this state to make a child custody determination.

3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Petition for modification--procedure--child support delinquency, effect of.

452.455. 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410, or sections 452.440 to 452.450, shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings may be filed as in any original proceeding.

2. Before making a decree under the provisions of section 452.410, or sections 452.440 to 452.450, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child must be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service (forty-five days if service by publication) file a verified answer. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to section 452.460.

3. In any case in which the paternity of a child has been determined by a court of competent jurisdiction and where the noncustodial parent is delinquent in the payment of child support in an amount in excess of ten thousand dollars, the custodial parent shall have the right to petition a court of competent jurisdiction for the termination of the parental rights of the noncustodial parent.

4. When a person filing a petition for modification of a child custody decree owes past due child support to a custodial parent in an amount in excess of ten thousand dollars, such person shall

post a bond in the amount of past due child support owed as ascertained by the division of child support enforcement or reasonable legal fees of the custodial parent, whichever is greater, before the filing of the petition. The court shall hold the bond in escrow until the modification proceedings pursuant to this section have been concluded wherein such bond shall be transmitted to the division of child support enforcement for disbursement to the custodial parent.

Notice to persons outside this state--submission to jurisdiction.

452.460. 1. The notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be given in any of the following ways:

(1) By personal delivery outside this state in the manner prescribed for service of process within this state;

(2) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(3) By certified or registered mail; or

(4) As directed by the court, including publication, if any other means of notification are ineffective.

2. Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof of service may be a receipt signed by the addressee or other evidence of delivery to the addressee.

3. The notice provided for in this section is not required for a person who submits to the jurisdiction of the court.

Simultaneous proceedings in other states.

452.465. 1. A court of this state shall not exercise its jurisdiction under sections 452.440 to 452.550 if, at the time of filing the petition, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with sections 452.440 to 452.550, unless the proceeding is stayed by the court of that other state for any reason.

2. Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under section 452.480 and shall consult the child custody registry established under section 452.515 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of that state.

3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending in order that the issue may be litigated in the more appropriate forum and that information may be exchanged in accordance with sections 452.530 to 452.550. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court in order that the issues may be litigated in the more appropriate forum.

Inconvenient forum.

452.470. 1. A court which has jurisdiction under this act* to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an

inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

2. A finding that a court is an inconvenient forum under subsection 1 above may be made upon the court's own motion or upon the motion of a party or a guardian ad litem or other representative of the child. In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction.

3. Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court, with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

4. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

5. The court may decline to exercise its jurisdiction under this act* if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

6. If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

7. Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

8. Any communication received from another state informing this state of a finding that a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

Jurisdiction declined because of conduct.

452.475. 1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

2. Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

3. In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

Information under oath to be submitted to the court.

452.480. 1. In his first pleading, or in an affidavit attached to that pleading, every party in a custody proceeding shall give information under oath as to the child's present address, with whom the child is presently living and with whom and where the child lived, other than on a temporary

basis, within the past six months. In this pleading or affidavit every party shall further declare under oath whether:

(1) He has participated in any capacity in any other litigation concerning the custody of the same child in this or any other state;

(2) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(3) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

2. If the declaration as to any of the items listed in subdivisions (1) through (3) of subsection 1 above is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

3. Each party has a continuing duty to inform the court of any change in information required by subsection 1 of this section.

Additional parties.

452.485. If the court learns from information furnished by the parties pursuant to section 452.480 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it may order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with section 452.460.

Appearance of parties--child--guardian ad litem appointed, fee --disqualification, when.

452.490. 1. The court may order any party to the proceeding who is in this state to appear personally before the court. If the court finds the physical presence of the child in court to be in the best interests of the child, the court may order that the party who has physical custody of the child appear personally with the child.

2. If a party to the proceeding whose presence is desired by the court is outside this state, with or without the child, the court may order that the notice given under section 452.460 include a statement directing that party to appear personally with or without the child.

3. If a party to the proceeding who is outside this state is directed to appear under subsection 1* of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child, if this is just and proper under the circumstances.

4. If the court finds it to be in the best interest of the child that a guardian ad litem be appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification of a guardian ad litem shall be ordered in any legal proceeding pursuant to chapter 210, RSMo, or this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for the purpose of determining custody of the child only, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

Binding force and res judicata effect of custody decree.

452.495. A custody decree rendered by a court of this state which had jurisdiction under section 452.450 binds all parties who have been served in this state or notified in accordance with section 452.460, or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made, unless and until that determination is modified pursuant to law, including the provisions of section 452.410 and sections 452.440 to 452.550.

Recognition of out-of-state custody decrees.

452.500. The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with sections 452.440 to 452.550, or which was made under factual circumstances meeting the jurisdictional standards of sections 452.440 to 452.550, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of sections 452.440 to 452.550.

Modification of custody decree of another state.

452.505. If a court of another state has made a custody decree, a court of this state shall not modify that decree unless it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with sections 452.440 to 452.550 or has declined to assume jurisdiction to modify the decree and the court of this state has jurisdiction.

Filing and enforcement of custody decree of another state.

452.510. 1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this state. The clerk shall treat the decree in the same manner as a custody decree of the circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

Registry of out-of-state custody decrees and proceedings.

452.515. The clerk of each circuit court shall maintain a registry in which he shall enter the following:

- (1) Certified copies of custody decrees of other states received for filing;
- (2) Communications as to the pendency of custody proceedings in other states;
- (3) Communications concerning findings of inconvenient forum under section 452.470 by a court of another state; and
- (4) Other communications or documents concerning custody proceedings in another state which in the opinion of the circuit judge may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

Certified copies of custody decrees.

452.520. The clerk of the circuit court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, may, upon payment therefor, certify and forward a copy of the decree to that court or person.

Taking testimony in another state.

452.525. In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may obtain the testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

Hearings and studies in another state--orders to appear.

452.530. 1. A court of this state may request the appropriate court of another state to hold a hearing to obtain evidence, to order persons within that state to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise obtained, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against the appropriate party.

Assistance to courts of other states.

452.535. 1. Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to obtain evidence or to produce or give evidence under other procedures available in this state for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise obtained may, in the discretion of the court and upon payment therefor, be forwarded to the requesting court.

2. A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

3. Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

Preservation of documents for use in other states.

452.540. In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. When requested by the court of another state the court may, upon payment therefor, forward to the other court certified copies of any or all of such documents.

Request for court records of another state.

452.545. If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state, upon taking jurisdiction of the case, shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 452.540.

Priority.

452.550. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under sections 452.440 to 452.550, determination of jurisdiction shall be given calendar priority and handled expeditiously.

Surcharge collected, when, use.

452.552. In addition to any other court costs required to institute an action in the circuit division of the circuit court, a surcharge of three dollars shall be paid by the person filing such action. The surcharge shall be collected and disbursed in a manner provided by sections 488.012 to 488.020, RSMo, by the court clerk at the time the petition is filed and shall be payable to the director of revenue for deposit in the domestic relations resolution fund established in section 452.554.

Domestic relations resolution fund established, use.

452.554. There is established in the state treasury a special fund to be known as the "Domestic Relations Resolution Fund". The director of revenue shall credit to and deposit all amounts received pursuant to section 452.552 to the fund. The general assembly shall appropriate moneys annually from the domestic relations resolution fund to the state courts administrator to pay the cost associated with the handbook created in section 452.556 and to reimburse local judicial circuits for the costs associated with the implementation of and creation of education programs for parents of children, alternative dispute resolution programs and similar programs applicable to domestic relations cases. The provisions of section 33.080, RSMo, shall not apply to the domestic relations resolution fund.

Handbook, contents, availability.

452.556. 1. The state courts administrator shall create a handbook or be responsible for the approval of a handbook outlining the following:

- (1) What is included in a parenting plan;
- (2) The benefits of the parties agreeing to a parenting plan which outlines education, custody and cooperation between parents;
- (3) The benefits of alternative dispute resolution;
- (4) The pro se family access motion for enforcement of custody or temporary physical custody;
- (5) The underlying assumptions for supreme court rules relating to child support; and
- (6) A party's duties and responsibilities pursuant to section 452.377, including the possible consequences of not complying with section 452.377. The handbooks shall be distributed to each court and shall be available in an alternative format, including Braille, large print, or electronic or audio format upon request by a person with a disability, as defined by the federal Americans with Disabilities Act.

2. Each court shall mail a copy of the handbook developed pursuant to subsection 1 of this section to each party in a dissolution or legal separation action filed pursuant to section 452.310, or any proceeding in modification thereof, where minor children are involved, or may provide the petitioner with a copy of the handbook at the time the petition is filed and direct that a copy of the handbook be served along with the petition and summons upon the respondent.

3. The court shall make the handbook available to interested state agencies and members of the public.

Educational sessions program shall be established by courts--for proceedings involving custody or support.

452.600. The circuit courts, by local rule, shall establish a program of educational sessions for parties to actions for dissolution of marriage or in postjudgment proceedings involving custody or support, concerning the effects of dissolution of marriage on minor children of the marriage, and the benefits of alternative dispute resolution, including mediation. In lieu of establishing such a program, the circuit court may, by local rule, designate a similar program of educational sessions offered by a private or public entity.

Court shall order parties to action and may order children to attend, when.

452.605. In an action for dissolution of marriage or legal separation involving minor children, or in a postjudgment proceeding wherein custody of minor children is to be determined by the court, the court shall, except for good cause, unless otherwise provided by local rule, order the parties to attend educational sessions concerning the effects of custody and the dissolution of marriage on children. As used in this section "good cause" includes, but is not limited to, situations where the parties have stipulated to the custody and visitation of the child, or a finding by a court with jurisdiction after all parties have received notice and an opportunity to be heard that the safety of a party or child may be endangered by attending the educational sessions. The court may order the minor children to attend age-appropriate educational sessions.

Confidentiality of facts obtained at sessions not considered in adjudication, exception.

452.607. The facts adduced at any educational session resulting from a referral pursuant to the provisions of sections 452.600 to 452.610 shall not be considered in the adjudication of a pending or subsequent judicial proceeding, nor shall any report resulting from such educational session, except a certification for completion of the session, become part of the record of any judicial proceeding unless the parties have stipulated in writing to the contrary.

Cost of educational session, amount.

452.610. The fees or costs of educational sessions under sections 452.600 to 452.610 shall be less than seventy-five dollars per person and shall be borne by the parties as deemed equitable.