

SECOND REGULAR SESSION

HOUSE BILL NO. 2424

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLEMAN (97).

5176H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 452.400, RSMo, and to enact in lieu thereof one new section relating to visitation rights.

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

Section A. Section 452.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.400, to read as follows:

452.400. 1. (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.

(2) (a) 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 any of the following offenses when a child was the victim:

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

b. A violation of section 568.020;

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

d. A violation of section 568.065;

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 e. A violation of section 573.200;
19 f. A violation of section 573.205; or
20 g. A violation of section 568.175.

21 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed
22 in paragraph (a) of this subdivision or for a violation of an offense committed in another state
23 when a child is the victim that would be a violation of chapter 566 or 568 if committed in
24 Missouri, the court may exercise its discretion in granting visitation to a parent not granted
25 custody if such parent or any person residing with such parent has been found guilty of, or
26 pled guilty to, any such offense.

27 (3) The court shall consider the parent's history of inflicting, or tendency to inflict,
28 physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on
29 other persons and shall grant visitation in a manner that best protects the child and the parent
30 or other family or household member who is the victim of domestic violence, and any other
31 children for whom the parent has custodial or visitation rights from any further harm.

32 (4) The court, if requested by a party, shall make specific findings of fact to show that
33 the visitation arrangements made by the court best protect the child or the parent or other
34 family or household member who is the victim of domestic violence, or any other child for
35 whom the parent has custodial or visitation rights from any further harm.

36 **(5) The court shall not deny or limit visitation to the parent not granted custody**
37 **because of the parent's COVID-19 vaccination status.**

38 2. (1) The court may modify an order granting or denying visitation rights whenever
39 modification would serve the best interests of the child, but the court shall not restrict a
40 parent's visitation rights unless it finds that the visitation would endanger the child's physical
41 health or impair his or her emotional development.

42 (2) (a) In any proceeding modifying visitation rights, the court shall not grant
43 unsupervised visitation to a parent if the parent or any person residing with such parent has
44 been found guilty of or pled guilty to any of the following offenses when a child was the
45 victim:

- 46 a. A felony violation of section 566.030, 566.032, 566.031, 566.060, 566.062,
47 566.064, 566.067, 566.068, 566.061, 566.083, 566.101, 566.100, 566.111, 566.151, 566.203,
48 566.206, 566.209, 566.211, or 566.215;
49 b. A violation of section 568.020;
50 c. A violation of subdivision (2) of subsection 1 of section 568.060;
51 d. A violation of section 568.065;
52 e. A violation of section 573.200;
53 f. A violation of section 573.205; or
54 g. A violation of section 568.175.

55 (b) For all other violations of offenses in chapters 566 and 568 not specifically listed
56 in paragraph (a) of this subdivision or for a violation of an offense committed in another state
57 when a child is the victim that would be a violation of chapter 566 or 568 if committed in
58 Missouri, the division may exercise its discretion regarding the placement of a child taken
59 into the custody of the state in which a parent or any person residing in the home has been
60 found guilty of, or pled guilty to, any such offense.

61 (3) When a court restricts a parent's visitation rights or when a court orders
62 supervised visitation because of allegations of abuse or domestic violence, a showing of proof
63 of treatment and rehabilitation shall be made to the court before unsupervised visitation may
64 be ordered.

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66 "Supervised visitation", as used in this section, is visitation which takes place in the presence
67 of a responsible adult appointed by the court for the protection of the child.

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

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

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

- 95 (1) AN ORDER FOR A COMPENSATORY PERIOD OF
96 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT
97 A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT
98 LESS THAN THE PERIOD OF TIME DENIED;
- 99 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO
100 EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF
101 PROVIDING THE CHILD WITH A CONTINUING AND
102 MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;
- 103 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED
104 DOLLARS AGAINST THE VIOLATOR;
- 105 (4) REQUIRING THE VIOLATOR TO POST BOND OR
106 SECURITY TO ENSURE FUTURE COMPLIANCE WITH
107 THE COURT'S ORDERS;
- 108 (5) ORDERING THE VIOLATOR TO PAY THE COST OF
109 COUNSELING TO REESTABLISH THE PARENT-CHILD
110 RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND
111 THE CHILD; AND
- 112 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE
113 REASONABLE EXPENSES, INCLUDING ATTORNEY'S
114 FEES AND COURT COSTS ACTUALLY INCURRED BY
115 THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL
116 OF CUSTODY, VISITATION OR THIRD-PARTY
117 CUSTODY."

118 5. If an alternative dispute resolution program is available pursuant to section
119 452.372, the clerk shall also provide information to all parties on the availability of any such
120 services, and within fourteen days of the date of service, the court may schedule alternative
121 dispute resolution.

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

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

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

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

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

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

137 7. The court shall consider, in a proceeding to enforce or modify a permanent custody
138 or visitation order or judgment, a party's violation, without good cause, of a provision of the
139 parenting plan, for the purpose of determining that party's ability and willingness to allow the
140 child frequent and meaningful contact with the other party.

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

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

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

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