

SECOND REGULAR SESSION

# HOUSE BILL NO. 2693

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

5677H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal section 452.335, RSMo, and to enact in lieu thereof one new section relating to maintenance orders.

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

Section A. Section 452.335, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.335, to read as follows:

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, **which may be bridge-the-gap, rehabilitative, or durational**, but only if it finds that the spouse seeking maintenance:

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

(2) Is unable to support himself **or herself** 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 **or her**, and his **or her** ability to meet his **or her** 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;

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.

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

19 (3) The comparative earning capacity of each spouse;

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

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

23 (6) The duration of the marriage;

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

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

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

29 (10) Any other relevant factors.

30 3. The maintenance order shall state if it is **bridge-the-gap, rehabilitative, or**  
31 **durational and whether the order is** modifiable or nonmodifiable. The court may order  
32 maintenance which includes a termination date **in accordance with the provisions of this**  
33 **section.** Unless the maintenance order which includes a termination date is nonmodifiable, the  
34 court may order the maintenance decreased, increased, terminated, extended, or otherwise  
35 modified based upon a substantial and continuing change of circumstances which occurred prior  
36 to the termination date of the original order; **provided that, no maintenance order shall be**  
37 **modified to extend its duration in excess of the limits established in this section.**

38 4. **For purposes of determining maintenance only, a short-term marriage is a**  
39 **marriage having a duration of less than seven years; a moderate-term marriage is a**  
40 **marriage having a duration of seven years or more but less than seventeen years; and a**  
41 **long-term marriage is a marriage having a duration of seventeen years or more. The**  
42 **duration of a marriage is the period of time from the first day of the marriage until the**  
43 **date of the most recent filing of an action of dissolution of marriage or legal separation.**

44 5. **Bridge-the-gap maintenance may be awarded to assist a party leaving a short-**  
45 **term marriage by providing support to allow the party to make a transition from being**  
46 **married to being single. Bridge-the-gap maintenance shall be designed to assist a party**  
47 **with legitimate, identifiable short-term needs. The length of the maintenance shall not**  
48 **exceed two years. An award of bridge-the-gap maintenance shall not be modifiable in**  
49 **amount or duration.**

50 6. (1) **Rehabilitative maintenance may be awarded to assist a party leaving a short-**  
51 **term, moderate-term, or long-term marriage in establishing the capacity for self-support**  
52 **through either:**

53 (a) The redevelopment of previous skills or credentials; or

54 (b) The acquisition of education, training, or work experience necessary to develop  
55 appropriate employment skills or credentials and the development and implementation of  
56 a career plan and career goals.

57 (2) In order to award rehabilitative maintenance, there shall be a specific and  
58 defined rehabilitative plan, which shall be included as part of any order awarding  
59 rehabilitative maintenance. The length of the maintenance shall not exceed five years.

60 (3) An award of rehabilitative maintenance may be modified or terminated based  
61 upon a substantial change in circumstances, upon noncompliance with the rehabilitative  
62 plan, or upon completion of the rehabilitative plan; provided that, the length of the  
63 maintenance shall not be modified to exceed the limits set forth in this subsection.

64 7. Durational maintenance may be awarded to provide for the reasonable needs as  
65 they were established during a short-term, moderate-term, or long-term marriage. An  
66 award of durational maintenance may be modified in accordance with the provisions of  
67 subsection 3 of this section; provided that, the length of the maintenance shall not be  
68 modified to exceed the limits set forth in this section.

69 8. Absent exigent circumstances, a court shall not order durational maintenance  
70 that remains in effect for more than:

71 (1) Three years if the duration of the marriage was less than seven years;

72 (2) Five years if the duration of the marriage was seven years or more but less than  
73 ten years;

74 (3) Seven years if the duration of the marriage was ten years or more but less than  
75 seventeen years;

76 (4) Ten years if the duration of the marriage was seventeen years or more but less  
77 than twenty-five years; or

78 (5) Fifteen years if the duration of the marriage was twenty-five years or more.

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80 For purposes of this subsection, "exigent circumstances" shall mean a medically-  
81 determinable physical or mental impairment or other compelling substantial impediment  
82 that prevents such spouse from earning sufficient income to provide for the spouse's  
83 reasonable needs. In reaching its determination, the court may consider whether a  
84 physical or mental impairment is the result of domestic violence or other substantial abuse  
85 by the spouse paying the maintenance. If the spouse seeking maintenance in a marriage  
86 of twenty-five years or more duration lacks sufficient property, including marital property  
87 apportioned to him or her, to provide for his or her reasonable needs, and has not been  
88 meaningfully engaged in the workforce, and if such spouse cannot reasonably reenter the

89 workforce even if reasonable retraining or other rehabilitative efforts were undertaken,  
90 then the court may consider such spouse's lack of marketable skills an exigent  
91 circumstance. The court shall consider that the lifestyle of both spouses may reasonably  
92 decline following a dissolution of marriage or legal separation.

93       **9. An award of bridge-the-gap, rehabilitative, or durational maintenance shall**  
94 **terminate upon a valid written agreement between the parties submitted to the court, the**  
95 **death of either party, or the remarriage of the party receiving maintenance.**

96       **10. For purposes of modification of prior orders establishing maintenance, the**  
97 **standards set forth in this section shall be applicable to all initial actions and modifications**  
98 **decided after August 28, 2020.**

99       **11. Nothing in this section shall be construed to prohibit parties from reaching an**  
100 **agreement, submitted in writing to the court, regarding the type or duration of modifiable**  
101 **or nonmodifiable maintenance, even if the duration of maintenance in such agreement**  
102 **exceeds the limits described in this section.**

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