

SENATE BILL NO. 1364

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

5114S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 452.335 and 452.370, RSMo, and to enact in lieu thereof two new sections relating to domestic relations.

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

Section A. Sections 452.335 and 452.370, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 452.335 and 452.370, to read as follows:

452.335. 1. In a proceeding for nonretroactive
2 invalidity, dissolution of marriage or legal separation, or
3 a proceeding for maintenance following dissolution of the
4 marriage by a court which lacked personal jurisdiction over
5 the absent spouse, the court may grant a maintenance order,
6 **which may be bridge, rehabilitative, or durational**, to
7 either spouse, but only if it finds that the spouse seeking
8 maintenance:

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

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

17 2. **The general assembly hereby finds and declares that**
18 **every spouse has a continuing duty to become self-supporting**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 following the dissolution of a marriage, so long as
20 physically and mentally capable. Further, maintenance is
21 not intended as a substitute for gainful employment, an open-
22 ended obligation without limitation, or a guaranty of a
23 certain standard of living. The maintenance order shall be
24 in such amounts and for such periods of time as the court
25 deems just, and after considering all relevant factors,
26 including:

27 (1) The financial resources of the party seeking
28 maintenance, including marital property apportioned to him
29 **or her**, and his **or her** ability to meet his **or her** needs
30 independently, including the extent to which a provision for
31 support of a child, **or a disabled or incapacitated adult**
32 **dependent**, living with the party includes a sum for that
33 party as custodian;

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

37 (3) The comparative earning capacity of each spouse
38 **and the efforts made by each spouse to take steps to become**
39 **self-supporting in accordance with this subsection;**

40 (4) The standard of living established during the
41 marriage **considered in light of this subsection;**

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

45 (6) The duration of the marriage;

46 (7) The age[,] and the physical and emotional
47 condition of [the spouse seeking maintenance] **each party;**

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

51 (9) The conduct of the parties during the marriage; and
52 (10) Any other relevant factors.

53 3. The maintenance order shall state if it is **bridge,**
54 **rehabilitative, or durational and whether the order is**
55 modifiable or nonmodifiable. The court [may] **shall** order
56 maintenance which includes a termination date **in accordance**
57 **with the provisions of this section.** Unless the maintenance
58 order which includes a termination date is nonmodifiable,
59 the court may order the maintenance decreased, increased,
60 terminated, extended, or otherwise modified based upon a
61 substantial and continuing change of circumstances which
62 occurred prior to the termination date of the original
63 order, **provided that no maintenance order shall be modified**
64 **to extend its duration in excess of the limits established**
65 **in this section, except as provided in subsection 10 of this**
66 **section.**

67 4. For purposes of determining maintenance only, or a
68 modification thereto, a short-term marriage is a marriage
69 having a duration of less than seven years; a moderate-term
70 marriage is a marriage having a duration of seven years or
71 more but less than seventeen years; and a long-term marriage
72 is a marriage having a duration of seventeen years or more.
73 The duration of a marriage is the period of time from the
74 first day of the marriage until the date of the filing of a
75 petition for dissolution of marriage or legal separation.

76 5. Bridge maintenance may be awarded to assist a party
77 to a short-term marriage seeking maintenance with
78 legitimate, identifiable short-term needs. The length of
79 the maintenance shall not exceed two years. An award of
80 bridge maintenance shall terminate upon the death of either
81 party or upon the remarriage of the party receiving

82 maintenance. An award of bridge maintenance shall not be
83 modifiable in amount or duration.

84 6. (1) Rehabilitative maintenance may be awarded to
85 assist a party to a short-term or moderate-term marriage
86 seeking maintenance in establishing the capacity for self-
87 support through either:

88 (a) The redevelopment of previous skills or
89 credentials; or

90 (b) The acquisition of education, training, or work
91 experience necessary to develop appropriate employment
92 skills or credentials.

93 (2) The length of the rehabilitative maintenance shall
94 not exceed four years.

95 (3) An award of rehabilitative maintenance may be
96 modified or terminated based upon substantial and continuing
97 changed circumstances, as a result of the failure, or
98 insufficient efforts being made by the party receiving
99 rehabilitative maintenance, to establish the capacity for
100 self-support as provided in this subsection, or upon
101 completion of the rehabilitative efforts contemplated by
102 this subsection, provided that the length of the maintenance
103 shall not be modified to exceed the limits set forth in this
104 subsection, except in accordance with subsection 10 of this
105 section.

106 7. Durational maintenance may be awarded to provide
107 for the needs and necessities of life as they were
108 established during a moderate-term or long-term marriage.
109 Durational maintenance may be awarded if such an award is
110 appropriate upon consideration of the factors set forth in
111 subsection 2 of this section.

112 8. Except as provided in subsection 10 of this
113 section, a court shall not order durational maintenance that
114 remains in effect for more than:

115 (1) Five years if the duration of the marriage was
116 seven years or more but less than twelve years;

117 (2) Seven years if the duration of the marriage was
118 twelve years or more but less than seventeen years; or

119 (3) Ten years if the duration of the marriage was
120 seventeen years or more.

121 An award of durational maintenance may be modified in
122 accordance with the provisions of subsection 3 of this
123 section, provided that the length of the maintenance shall
124 not be modified to exceed the limits set forth in this
125 subsection, except as provided in subsection 10 of this
126 section.

127 9. In establishing the term of durational maintenance,
128 and for purposes of all maintenance modifications decided on
129 or after August 28, 2024, the court shall consider all
130 relevant factors including, but not limited to:

131 (1) The retirement, or the prospect and ability of the
132 payor of maintenance to retire, from full-time employment or
133 reduce his or her employment status to part-time or accept
134 lower paying employment as part of a plan to retire;

135 (2) The age of the party paying maintenance;

136 (3) The duration and amount of maintenance already
137 paid, and the efforts made by the party seeking maintenance
138 to become self-supporting;

139 (4) The likelihood that the lifestyle of both spouses
140 may reasonably decline following a dissolution of marriage
141 or legal separation and as the parties approach retirement
142 age; and

143 (5) The provisions of subsection 2 of this section.

144 10. Notwithstanding the limits set forth in
145 subsections 6 and 8 of this section, a court may award
146 durational maintenance or modify rehabilitative or
147 durational maintenance in excess of the limits set forth in
148 this section if the court specifically finds, after
149 consideration of all relevant factors, including those set
150 forth in subsection 2 of this section, that:

151 (1) Such limits will result in a substantial and
152 continuing hardship for the party seeking, or currently
153 receiving, maintenance;

154 (2) The party seeking maintenance meets the criteria
155 in subdivisions (1) and (2) of subsection 1 of this section;

156 (3) The party seeking maintenance will be unable to
157 establish the capacity for self-support within the
158 maintenance limits set forth in subsection 6 or 8 of this
159 section for the applicable marital duration at issue; and

160 (4) Extending the maintenance further under this
161 subsection is just and fair to both parties.

162 If the court extends the duration of the maintenance under
163 this subsection, the court shall enter written findings of
164 fact and conclusions of law setting forth the grounds for
165 exceeding the limits set forth in this section in the order
166 establishing or modifying rehabilitative or durational
167 maintenance, specifically addressing subdivisions (1) to (4)
168 of this subsection, provided that absent findings made by
169 the court in accordance with this subsection, the maximum
170 duration for any maintenance ordered under this subsection,
171 or in any proceeding where maintenance is considered, shall
172 be the lesser of a time period equal to fifty percent of the
173 duration of the marriage at issue, calculated from the date

174 of the marriage through separation, or fifteen years. The
175 court shall also incorporate as part of any modifiable
176 maintenance order entered under this chapter a specific
177 order that the party receiving maintenance has an
178 affirmative duty to make reasonable and continuing efforts
179 to establish the capacity for self-support and to become
180 self-supporting, and the failure to do so may be relied upon
181 by the court as grounds for a modification or termination of
182 maintenance in any future proceeding unless the physical or
183 mental condition of the party seeking maintenance or the
184 application of subsection 12 or 13 of this section makes the
185 inclusion of such a provision in the order unreasonable or
186 inappropriate.

187 11. Except as otherwise provided by subsection 12 or
188 13 of this section, an order awarding maintenance shall be
189 subject to modification, if modifiable, or termination if it
190 can be shown that the recipient and another person are
191 cohabitating or have entered into a mutually supportive
192 relationship that is the functional equivalent of marriage
193 or a committed partnership that has existed for at least
194 twelve months of an eighteen-month period.

195 12. For purposes of modification of prior orders
196 establishing maintenance, the standards set forth in this
197 section shall be applicable to all initial actions and
198 modifications decided on or after August 28, 2024.
199 Notwithstanding provisions to the contrary contained in this
200 section or section 452.370, either party to any maintenance
201 order entered prior to August 28, 2024, may file a
202 modification under section 452.370 seeking to classify
203 maintenance being paid under an existing maintenance order
204 as bridge, rehabilitative, or durational or to shorten or
205 lengthen the term of maintenance being paid under any such

206 order, provided that the time limits, public policy
207 statements, and other provisions of this section and section
208 452.370 shall control in all such actions initiated under
209 those sections, including, without limitation, the
210 durational limits on maintenance specified in this section.
211 There shall be a presumption in favor of modifying such
212 existing orders to bring them into conformity with the
213 provisions of this section and section 452.370 and
214 specifically the public policy set forth in this section and
215 section 452.370, and courts shall have the latitude to give
216 credit for maintenance paid under an existing order toward
217 any modified maintenance term entered as part of a
218 modification order.

219 13. Nothing in this section shall be construed to
220 prohibit parties from reaching an agreement, submitted in
221 writing to the court, regarding the type or duration of
222 modifiable or nonmodifiable maintenance, regardless of
223 whether the duration of maintenance in such agreement
224 exceeds the limits described in this section.

452.370. 1. Except as otherwise provided in
2 subsection 6 of section 452.325, **and in accordance with the**
3 **provisions of section 452.335**, the provisions of any
4 judgment respecting maintenance or support may be modified
5 only upon a showing of **[changed circumstances so]**
6 substantial and continuing **[as to make the terms**
7 **unreasonable] changed circumstances**. In a proceeding for
8 modification of any child support or maintenance judgment,
9 the court, in determining whether or not **[a]** substantial
10 **[change in] and continuing changed** circumstances **[has] have**
11 occurred, shall consider all financial resources of both
12 parties, including the extent to which the reasonable
13 expenses of either party are, or should be, shared by a

14 spouse or other person with whom he or she cohabits, and the
15 earning capacity of a party who is not employed. If the
16 application of the child support guidelines and criteria set
17 forth in section 452.340 and applicable supreme court rules
18 to the financial circumstances of the parties would result
19 in a change of child support from the existing amount by
20 twenty percent or more, a prima facie showing has been made
21 of [a change of circumstances so] substantial and continuing
22 [as to make the present terms unreasonable] **changed**
23 **circumstances**, if the existing amount was based upon the
24 presumed amount pursuant to the child support guidelines.

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

30 3. Unless otherwise agreed in writing or expressly
31 provided in the judgment, the obligation to pay future
32 statutory maintenance is terminated upon the death of either
33 party [or], the remarriage of the party receiving
34 maintenance, **or if it can be shown that the party receiving**
35 **maintenance and another person are cohabitating or have**
36 **entered into a mutually supportive relationship that is the**
37 **functional equivalent of marriage or committed partnership**
38 **that has existed for at least twelve months of an eighteen-**
39 **month period.**

40 4. Unless otherwise agreed in writing or expressly
41 provided in the judgment, provisions for the support of a
42 child are terminated by emancipation of the child. The
43 parent entitled to receive child support shall have the duty
44 to notify the parent obligated to pay support of the child's
45 emancipation and failing to do so, the parent entitled to

46 receive child support shall be liable to the parent
47 obligated to pay support for child support paid following
48 emancipation of a minor child, plus interest.

49 5. If a parent has made an assignment of support
50 rights to the family support division on behalf of the state
51 as a condition of eligibility for benefits pursuant to the
52 Temporary Assistance for Needy Families program and either
53 party initiates a motion to modify the support obligation by
54 reducing it, the state of Missouri shall be named as a party
55 to the proceeding. The state shall be served with a copy of
56 the motion by sending it by certified mail to the director
57 of the family support division.

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

75 7. If a responsive pleading raising the issues of
76 custody or visitation is filed in response to a motion to
77 modify child support filed at the request of the family

78 support division by a prosecuting attorney or circuit
79 attorney or an attorney under contract with the division,
80 such responsive pleading shall be severed upon request.

81 8. Notwithstanding any provision of this section which
82 requires a showing of substantial and continuing [change in]
83 **changed** circumstances, in a IV-D case filed pursuant to this
84 section by the family support division as provided in
85 section 454.400, the court shall modify a support order in
86 accordance with the guidelines and criteria set forth in
87 supreme court rule 88.01 and any regulations thereunder if
88 the amount in the current order differs from the amount
89 which would be ordered in accordance with such guidelines or
90 regulations.

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