

SECOND REGULAR SESSION

SENATE BILL NO. 961

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time January 30, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4393S.02I

AN ACT

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

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

Section A. Sections 452.335 and 452.370, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 452.335 and 452.370, to read as follows: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

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

19 of a child living with the party includes a sum for that party as custodian;

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

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

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

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

26 (6) The duration of the marriage;

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

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

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

32 (10) Any other relevant factors.

33 3. The maintenance order shall state if it is **bridge, rehabilitative, or**
34 **durational and whether the order is** modifiable or nonmodifiable. The court
35 may order maintenance which includes a termination date **in accordance with**
36 **the provisions of this section**. Unless the maintenance order which includes
37 a termination date is nonmodifiable, the court may order the maintenance
38 decreased, increased, terminated, extended, or otherwise modified based upon a
39 substantial and continuing change of circumstances which occurred prior to the
40 termination date of the original order; **provided that no maintenance order**
41 **shall be modified to extend its duration in excess of the limits**
42 **established in this section, except as provided in subsection 10 of this**
43 **section**.

44 4. For purposes of determining maintenance only, a short-term
45 marriage is a marriage having a duration of less than seven years; a
46 moderate-term marriage is a marriage having a duration of seven years
47 or more but less than seventeen years; and a long-term marriage is a
48 marriage having a duration of seventeen years or more. The duration
49 of a marriage is the period of time from the first day of the marriage
50 until the date of the filing of a petition for dissolution of marriage or
51 legal separation.

52 5. Bridge maintenance may be awarded to assist a party to a
53 short-term marriage seeking maintenance with legitimate, identifiable
54 short-term needs. The length of the maintenance shall not exceed two

55 years. An award of bridge maintenance shall terminate upon the death
56 of either party or upon the remarriage of the party receiving
57 maintenance. An award of bridge maintenance shall not be modifiable
58 in amount or duration.

59 **6. (1) Rehabilitative maintenance may be awarded to assist a**
60 **party to a short-term or moderate-term marriage seeking maintenance**
61 **in establishing the capacity for self-support through either:**

62 **(a) The redevelopment of previous skills or credentials; or**

63 **(b) The acquisition of education, training, or work experience**
64 **necessary to develop appropriate employment skills or credentials.**

65 **(2) In order to award rehabilitative maintenance, there shall be**
66 **a specific and defined rehabilitative plan, which shall be included as**
67 **part of any order awarding rehabilitative maintenance. The length of**
68 **the maintenance shall not exceed four years.**

69 **(3) An award of rehabilitative maintenance may be modified or**
70 **terminated based upon a substantial change in circumstances, upon**
71 **noncompliance with the rehabilitative plan, or upon completion of the**
72 **rehabilitative plan; provided, that the length of the maintenance shall**
73 **not be modified to exceed the limits set forth in this subsection, except**
74 **as provided in subsection 10 of this section.**

75 **7. Durational maintenance may be awarded to provide for the**
76 **needs and necessities of life as they were established during a**
77 **moderate-term or long-term marriage. Durational maintenance may be**
78 **awarded if such an award is appropriate upon consideration of the**
79 **factors set forth in subsection 2 of this section.**

80 **8. A court shall not order durational maintenance that remains**
81 **in effect for more than:**

82 **(1) Five years if the duration of the marriage was seven years or**
83 **more but less than ten years;**

84 **(2) Seven years if the duration of the marriage was ten years or**
85 **more but less than seventeen years; or**

86 **(3) Ten years if the duration of the marriage was seventeen years**
87 **or more.**

88 **An award of durational maintenance may be modified in accordance**
89 **with the provisions of subsection 3 of this section; provided, that the**
90 **length of the maintenance shall not be modified to exceed the limits set**
91 **forth in this subsection, except as provided in subsection 10 of this**

92 section.

93 **9. In establishing the term of durational maintenance, and for**
94 **purposes of maintenance modifications decided on or after August 28,**
95 **2020, the court shall consider all relevant factors, including, but not**
96 **limited to:**

97 **(1) The ability of the spouse paying maintenance to retire;**

98 **(2) Whether the court or the parties considered the retirement**
99 **of the spouse paying maintenance in previous agreements or**
100 **maintenance awards, including whether the spouse receiving**
101 **maintenance has foregone or relinquished claims, rights, or property**
102 **in exchange for a more substantial or longer maintenance award;**

103 **(3) Access to health care by both of the spouses; and**

104 **(4) The duration and amount of maintenance already paid.**

105 **10. Notwithstanding any other provision of law to the contrary,**
106 **a court may award or modify rehabilitative or durational maintenance**
107 **in excess of the limits set forth in this section if the court specifically**
108 **finds, after consideration of all relevant factors, including those set**
109 **forth in subsection 2 of this section, that such limits are not in the**
110 **interests of fairness for the party seeking maintenance or modification**
111 **of an existing maintenance order. The court shall enter written**
112 **findings of fact and conclusions of law setting forth the grounds for**
113 **exceeding the limits set forth in this section in the order establishing**
114 **or modifying rehabilitative or durational maintenance.**

115 **11. An order awarding maintenance shall be subject to**
116 **modification or termination if it can be shown that the recipient and**
117 **another person have entered into a mutually supportive relationship**
118 **that is the functional equivalent of marriage that has existed for at**
119 **least twelve months of an eighteen-month period.**

120 **12. For purposes of modification of prior orders establishing**
121 **maintenance, the standards set forth in this section shall be applicable**
122 **to all initial actions and modifications decided on or after August 28,**
123 **2020.**

 452.370. 1. Except as otherwise provided in subsection 6 of section
2 452.325, and in accordance with the provisions of section 452.335, the
3 provisions of any judgment respecting maintenance or support may be modified
4 only upon a showing of changed circumstances so substantial and continuing as
5 to make the terms unreasonable. In a proceeding for modification of any child

6 support or maintenance judgment, the court, in determining whether or not a
7 substantial change in circumstances has occurred, shall consider all financial
8 resources of both parties, including the extent to which the reasonable expenses
9 of either party are, or should be, shared by a spouse or other person with whom
10 he or she cohabits, and the earning capacity of a party who is not employed. If
11 the application of the child support guidelines and criteria set forth in section
12 452.340 and applicable supreme court rules to the financial circumstances of the
13 parties would result in a change of child support from the existing amount by
14 twenty percent or more, a prima facie showing has been made of a change of
15 circumstances so substantial and continuing as to make the present terms
16 unreasonable, if the existing amount was based upon the presumed amount
17 pursuant to the child support guidelines.

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

22 3. Unless otherwise agreed in writing or expressly provided in the
23 judgment, the obligation to pay future statutory maintenance is terminated upon
24 the death of either party [or], the remarriage of the party receiving maintenance,
25 **or if it can be shown that the party receiving maintenance and another**
26 **person have entered into a mutually supportive relationship that is the**
27 **functional equivalent of marriage that has existed for at least twelve**
28 **months of an eighteen-month period.**

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

36 5. If a parent has made an assignment of support rights to the family
37 support division on behalf of the state as a condition of eligibility for benefits
38 pursuant to the Temporary Assistance for Needy Families program and either
39 party initiates a motion to modify the support obligation by reducing it, the state
40 of Missouri shall be named as a party to the proceeding. The state shall be
41 served with a copy of the motion by sending it by certified mail to the director of

42 the family support division.

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

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

60 8. Notwithstanding any provision of this section which requires a showing
61 of substantial and continuing change in circumstances, in a IV-D case filed
62 pursuant to this section by the family support division as provided in section
63 454.400, the court shall modify a support order in accordance with the guidelines
64 and criteria set forth in supreme court rule 88.01 and any regulations thereunder
65 if the amount in the current order differs from the amount which would be
66 ordered in accordance with such guidelines or regulations.

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