

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 503
98TH GENERAL ASSEMBLY

1265H.02C

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Section A. Section 452.335, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.335, to read as follows: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

(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;

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.

- 19 (4) The standard of living established during the marriage;
- 20 (5) The obligations and assets, including the marital property apportioned to him **or her**
- 21 and the separate property of each party;
- 22 (6) The duration of the marriage;
- 23 (7) The age, and the physical and emotional condition of the spouse seeking
- 24 maintenance;
- 25 (8) The ability of the spouse from whom maintenance is sought to meet his **or her** needs
- 26 while meeting those of the spouse seeking maintenance;
- 27 (9) The conduct of the parties during the marriage; and
- 28 (10) Any other relevant factors.
- 29 3. The maintenance order shall state if it is modifiable or nonmodifiable. The court may
- 30 order maintenance which includes a termination date. Unless the maintenance order which
- 31 includes a termination date is nonmodifiable, the court may order the maintenance decreased,
- 32 increased, terminated, extended, or otherwise modified based upon a substantial and continuing
- 33 change of circumstances which occurred prior to the termination date of the original order.
- 34 **4. (1) All maintenance orders shall include a termination date of not more than one**
- 35 **hundred twenty months from date of entry of the original order; except that, any**
- 36 **maintenance obligation which is in arrearage at the scheduled termination date shall not**
- 37 **terminate until the obligor has repayed such arrearage in full. No additional obligation**
- 38 **shall accrue during the repayment of any arrearage;**
- 39 **(2) Any maintenance obligation in effect on the effective date of this section and not**
- 40 **in arrears may be automatically terminated six months after maintenance has been paid**
- 41 **for ten years, or six months after the effective date of this section, whichever is later. The**
- 42 **maintenance obligation of any obligor who is in arrears shall not be terminated until such**
- 43 **obligor has repayed the entire arrearage in full, including the additional six months of**
- 44 **maintenance required under this subdivision. No additional obligation shall accrue during**
- 45 **the repayment of any arrearage;**
- 46 **(3) Any obligor who meets the requirements of this subsection may seek an**
- 47 **automatic termination of his or her maintenance obligation by filing notice with the court**
- 48 **of the obligor's intent to terminate his or her maintenance obligation in accordance with**
- 49 **this section and submitting evidence sufficient to establish that the obligor's maintenance**
- 50 **obligation is paid in full and not in arrears. The court shall, without a hearing, verify**
- 51 **whether the maintenance obligation is paid in full and not in arrears. Upon such**
- 52 **verification, the court shall automatically terminate the obligor's maintenance obligation**
- 53 **and notify the obligee of such termination;**

54 **(4) During any six-month period of continued maintenance payments or period of**
55 **repayment of arrearages by an obligor under this subsection, the court shall not modify**
56 **the existing order of maintenance;**

57 **(5) Nothing in this subsection shall be construed as invalidating or otherwise**
58 **nullifying a termination date of any order of maintenance in existence on the effective date**
59 **of this section which terminates a maintenance obligation in less than ten years;**

60 **(6) Notwithstanding any provision of subdivision (1) to (5) to the contrary, if the**
61 **spouse receiving maintenance is physically or mentally incapacitated from supporting**
62 **himself or herself and is insolvent, the court may extend the maintenance obligation past**
63 **the termination date.**

64 **5. Notwithstanding the provisions of subdivision (1) of subsection 4 of this section,**
65 **maintenance orders may be extended for the following reasons:**

66 **(a) The recipient is enrolled in an education secondary, post secondary, graduate,**
67 **or technical training program. Maintenance granted under this paragraph shall be to**
68 **provide a standard of living for the recipient. Additionally, the recipient shall maintain**
69 **at least twelve credit hours and must receive passing grades in the courses of instruction.**
70 **Any maintenance granted under this paragraph shall include a termination date of not**
71 **more than ten years from the date of entry of the original order; except that, any**
72 **maintenance obligation which is in arrearage at the scheduled termination date shall not**
73 **terminate until the obligor has repaid such arrearage in full. No additional obligation shall**
74 **accrue during the repayment of any arrearage.**

75 **(b) The recipient has developed physical, emotional, or mental health issues during**
76 **the duration of the marriage or such condition has progressed during the marriage to**
77 **where the recipient is unable to provide for themselves. Any maintenance granted under**
78 **this paragraph may extend the termination date until he recipient is able to provide for**
79 **himself or herself or the recipient passes away.**

80 **(c) At least one minor child of the marriage physically lives in the home of the**
81 **recipient. Maintenance granted under this subsection shall be for a reasonable time**
82 **period, as decided by the court.**

83 **(d) At least one minor child of the marriage is enrolled in a post-secondary or**
84 **technical training program. Additionally, the child of the marriage shall maintain at least**
85 **twelve credit hours and must receive passing grades in the courses of instruction.**
86 **Maintenance under this subdivision shall terminate when the child turns twenty-one or**
87 **completes the course of education, whichever is sooner.**

88 **(e) A child of the marriage has developed physical, emotional, or mental health**
89 **issues or such condition has progressed to where the child is unable to provide for himself**

90 or herself. Any maintenance granted under this paragraph may extend the termination
91 date until the child is able to provide for himself or herself or the child passes away.

92 (f) Pursuant to any valid settlement agreement entered into by both parties to the
93 marriage.

94 (g) The recipient's age is such that the option in subdivision (a) of this subsection
95 would not provide the recipient with a realistic opportunity to achieve a standard of living
96 that was experienced during the marriage.

97 (h) The court finds that fundamental fairness requires a continuation of
98 maintenance. The court must clearly and in a detailed manner, explain the rationale for
99 continuing maintenance under this subdivision in the modified judgment.

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