



THE MISSOURI BAR

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DATE: April 28, 2009
TO: Representative Will Kraus
FROM: The Missouri Bar
RE: House Bill 832

Recently, The Missouri Bar Executive Committee met to review legislation. The Executive Committee consists of the officers of the bar and three additional members annually elected by the Board of Governors. The members of this year's committee are Thomas M. Burke, President; H.A. "Skip" Walther, President-Elect; John S. Johnston, Vice-President; Charlie J. Harris, Jr., Immediate Past-President; Carol Chazen Friedman; Patrick B. Starke; and Deanna K. Scott. The committee has authority to act on behalf of the Board of Governors during the legislative session. In reviewing legislation, the Executive Committee considers comments received from various Missouri Bar legislative review subcommittees. All positions taken by the Executive Committee are communicated to the full Board as soon as possible after they are taken.

Recently, the Missouri Bar Executive Committee reviewed House Bill 832, which would allow a parent to file a pro se family support motion to modify child support owed if there is a 20% or more change in the obligated party's income. The Executive Committee found this legislation to be within the legislative scope of The Missouri Bar.

Section 452.340.13.(6) of the bill provides:

"No party shall file more than one family support motion in a twelve-month period. If a party files a family support motion under this section and two such motions are Denied by the court within a ten-year period, such party shall be prohibited from filing any additional family support motions under this subsection."

The bar supports public access to the judicial system. The Executive Committee believes the above restriction on access to the courts is unconstitutional and therefore, voted to oppose House Bill 832 as drafted.

The following additional comments from bar members reviewing this legislation are provided for your consideration:

"The statutes already provide sufficient grounds for modifications. Each case is unique on its facts and any attempt to establish a bright line for modification carries its own consequences." *Carla Holste*

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“There appear to be several problems with the bill. The service requirements are vague. The deadlines are much shorter than the usual requirements. It is unclear what the responding party would file and the service requirements for the response. More importantly, the bill conflicts with Section 452.370...”

Jeremiah Kidwell

“...[T]he provision that simply uses the prior Form 14, then substituting the income, with consideration of no other factor is a huge problem. Many variables go into, and are allowed under the rules of use for the Form 14. This provision would directly conflict with those rules. Additionally, not to include...other factors like child care (which changes drastically with age of child), health insurance costs, extraordinary health care costs, after born children, if appropriate, other child support orders and overnight visitation credits undermine the body of rules and case law in calculation of support with Form 14.) *Larry Swall*