

IN THE CIRCUIT COURT OF THE ST. LOUIS COUNTY  
STATE OF MISSOURI

IN RE:	)	
	)	
ANGLEA M FREINER	)	
Petitioner,	)	
	)	
And	)	Case No. 14SL-DR02617-01
	)	Division: 31
JAMES S JUDY	)	
Respondent.	)	

**GUARDIAN AD LIEM  
RECOMMENDATION TO THE COURT**

**CHILD CUSTODY**

1. “The standard for modification found in section 452.410 applies when a party seeks to modify the custodial arrangement, as well as when a party seeks to modify a term related to the custodial arrangement, such as the parenting time schedule.” *Russell v Russell*, 210 S.W. 3D 191-193-194 (Mo. Banc 2007) “ Modification will be granted if the court finds, “upon the basis of facts that have arisen since the prior decree or that were unknown to the court finds, “upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of prior decree, that a change has occurred in the circumstances of the child or his custodian and that the modification is necessary to serve the best interest of the child.” §452.410.1. In all cases, the burden of proof is on the party seeking modification to show the required

change in circumstances.” *Clayton v. Sarratt*, 387 S.W. 3D 439,446 (Mo. App. W.D. 2013).

2. The Section 452.410 Statutory Standard requires a change in circumstance for those proposed modification that do not deprive one custodial parent of custody altogether. The Section 452.410 Case Law Standard requires that a substantial change in circumstance be shown when the modification sought seeks to deprive one custodial parent altogether. *Morgan v Morgan*, ED103426. (Mo. App. E.D. 2016). To modify a previous order of visitation rights a court must merely find that the modification would serve the best interest of the child Section 452.400.2; *Turley v Turley*, 5 S.W. 3d. 162,164 (Mo. Banc 1999).
3. GAL must consider the following factors under Section 452.375.1, based on these factors here is my assessment:
  - (1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;
  - (2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;
  - (3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;
  - (4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;
  - (5) The child's adjustment to the child's home, school, and community;
  - (6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;
  - (7) The intention of either parent to relocate the principal residence of the child; and
  - (8) The wishes of a child as to the child's custodian.
4. With regard to Section 452.375 and the factors, the GAL suggests as follows:

5. (1) *The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;*
  - a. Mother is requesting sole legal and sole physical custody.
  - b. Father is asking for joint legal and joint physical custody.
6. (2) *The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;*
  - a. Mother in the past has interfered with the custody, since the pendency of the case and Father had to bring law enforcement to enforce his last custody cycle.
7. (3) *The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;*
  - a. No siblings just extended family on both sides.
8. (4) *Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;*
  - a. Father will follow the Court order, has done so during pendency of this case.
  - b. Mother has repeatedly violated the Court's orders she failed to do drug drops, has interfered with custody exchanges, the Court had to threaten jail time just so she would comply. Mother has not encouraged the child to speak to her Father, I do believe that she has actively alienated the daughter towards her Father.
  - c. Mother violated Court's order by discussing the minor testimony with the minor after the minor testified. Further, as of August 22, 2020, she discussed the whole case with the minor child via phone all the exhibits and the testimony, in direct violation of the Court's order.
9. (5) *The child's adjustment to the child's home, school, and community;*
  - a. Dalilah is freshman, she will be attending Affton school virtually.
  - b. Father did present the stats on Bozeman the school in Montana she would be attending if the Court changes custody.
10. (6) *The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined in section 455.010 has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the*

*court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;*

- a. Mother alleges Domestic Violence, but did not present any evidence of said violence.
- b. Father does have disorderly conduct for an incident that occurred at his home.
- c. Mother has marijuana in her system when the drug drop was performed in February 6, 2020, however it is believed that she may have had more based on her refusal to drop despite the Court's order on 9/17/2019, 10/29/2019, 2/5/2020.
- d. Father did allow the minor child to stay with his Father Steven Judy, even after the Guardian ad litem supplied information that his Father was registered sex offender, brings his judgment in to question.
- e. Mother left the child with a friend while seeking a job out of state, without notifying Father, in turn Mother got stranded on her way there and was delayed several days.

*11. (7) The intention of either parent to relocate the principal residence of the child;  
and*

- a. Mother and minor stated that they were looking to move to Colorado or Arizona.
- b. Father lives in Montana.

*12. (8) The wishes of a child as to the child's custodian.*

- a. Dalilah testified that she would like to stay with her Mother. She states that her Father does not believe has she feels. She believes that he is manipulative. She states that at times she doesn't want to talk to her Father because he doesn't understand her and feels safer with her Mother.
- b. She does enjoy her summer camp with her Father in which she is a camp counselor.

*Guardian ad litem Recommendation:*

I believe it is in the best interest of the children that Father and Mother receives joint legal and the Father receive sole physical custody, with the following language for decision making: It is


in the best interests of the child that Father and Mother have joint legal custody of the child. Major decisions shall be made by Mother and Father jointly if possible. However, the parents recognize that they have difficulty communicating and co-parenting. In the past there have been times when decisions have needed to be made for the children and due to this lack of communication, or lack of ability to co-parent, decisions were not made or one parent made them without the consent/agreement of the other parent. There has been emotional harm to the parties' children. It is in the best interest of the parties' child that decisions are made in a timely manner. As such, a parent seeking to make a decision for the parties' children shall notify in writing the other parent of a decision that needs to be made or is requested to be made for the children regarding their general growth and welfare (including but not limited to decisions regarding education, nonemergency health, dental and psychological issues, extra-curricular activities, religion, employment, purchase or operation of a motor vehicle, contraception or sex education.) If the other parent does not respond or object in writing to the notifying parent within seven (7) days of the date posted in our Family Wizard, then the notifying party shall make a final decision on behalf of the children regarding the issues (s) raised in the notification. If the parent receiving notification objects in writing within the seven (7) days from the date of the posting, then the matter may be decided by the educational advocate or medical professional.

*c.* Parties should use Our Family Wizard as means to communicate.

*d.* Guardian ad Litem suggest the following custodial schedule:

*i.* Father get the school year and Mother will receive holidays and summers.

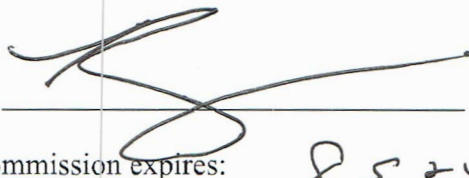
Guardian ad liem believes that because of Mother's interference and blatant disrespect of the Court's orders sets a poor example to the minor child. Mother has shown her daughter and the Court that rules are not to be followed. Also, Mother's constant interference with Father's time and relationship concerns this Guardian ad liem, it is sad that despite what the minor wants the Guardian must error on the sign of caution and recommend the she moves to Montana with her Father.

  
 Venus A. Jackson, Esq. #59872  
 7584 Olive Blvd Ste. 201  
 University City, MO 63130  
 Telephone (314) 721-7230  
 Fax (314) 596-4612  
[venusesquire@sbcglobal.net](mailto:venusesquire@sbcglobal.net)

STATE OF MISSOURI )  
 )ss  
COUNTY OF (COUNTY) )

Now on this 23 day of Aug, 2020, before me personally appeared (Venus A Jackson), a person known to me to be the individual described in the foregoing document and, being first duly sworn, executed this document in my presence and/or acknowledged that she signed same; that the statements contained in the foregoing document are true and correct according to (his/her) best knowledge and information and that (he/she) signed the same as (his/her) free act and deed.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal the day and year first above written.

  
\_\_\_\_\_

Notary Public

My commission expires: 8 5 21

