FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 604

96TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 5, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1580S.03C

AN ACT

To repeal sections 210.112, 210.496, 210.498, 210.565, 210.566, 211.031, 211.447, and 453.070, RSMo, and to enact in lieu thereof eleven new sections relating to parental rights.

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

Section A. Sections 210.112, 210.496, 210.498, 210.565, 210.566, 211.031, 211.447, and 453.070, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 143.1015, 210.112, 210.496, 210.498, 210.565, 210.566, 210.617, 211.031, 211.447, 453.070, and 453.600, to read as follows:

143.1015. 1. In each taxable year beginning on or after January 1, 2011, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the foster care and adoptive parents recruitment and retention fund as established under section 453.600, hereinafter referred to as the fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the foster care and adoptive parents recruitment and

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

retention fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the fund as provided in subsections 2 and 3 of this section. All moneys credited to the fund shall be considered nonstate funds under the provisions of article IV, section 15 of the Missouri Constitution.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund.

3. The director of revenue shall deposit at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund.

4. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the fund shall be distributed by the department of social services in accordance with the provisions of this section and section 453.600.

6. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2011, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

210.112. 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

(1) The safety and welfare of children is paramount;

(2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;

(3) Services to children and their families shall be provided in a timely

10 manner to maximize the opportunity for successful outcomes; and
11 (4) Any provider of direct services to children and families shall have the
12 appropriate and relevant training, education, and expertise to provide the highest
13 quality of services possible which shall be consistent with the federal standards,
14 but not less than the standards and policies used by the children's division as of
15 January 1, 2004.
16 2. On or before July 1, 2005, and subject to appropriations, the children's
17 division and any other state agency deemed necessary by the division shall, in
18 consultation with the community and providers of services, enter into and
19 implement contracts with qualified children's services providers and agencies to
20 provide a comprehensive and deliberate system of service delivery for children
21 and their families. Contracts shall be awarded through a competitive process and
22 provided by children's services providers and agencies currently contracting with
23 the state to provide such services and by public and private not-for-profit or
24 limited liability corporations owned exclusively by not-for-profit corporations
25 children's services providers and agencies which have:
26 (1) A proven record of providing child welfare services within the state of
27 Missouri which shall be consistent with the federal standards, but not less than
28 the standards and policies used by the children's division as of January 1, 2004;
29 and
30 (2) The ability to provide a range of child welfare services, which may
31 include case management services, family- centered services, foster and adoptive
32 parent recruitment and retention, residential care, in-home services, foster care
33 services, adoption services, relative care case management, planned permanent
34 living services, and family reunification services.
35 No contracts shall be issued for services related to the child abuse and neglect
36 hotline, investigations of alleged abuse and neglect, and initial family
37 assessments. Any contracts entered into by the division shall be in accordance
38 with all federal laws and regulations, and shall not result in the loss of federal
39 funding. Such children's services providers and agencies under contract with the
40 division shall be subject to all federal, state, and local laws and regulations
41 relating to the provision of such services, and shall be subject to oversight and
42 inspection by appropriate state agencies to assure compliance with standards
43 which shall be consistent with the federal standards, but not less than the
44 standards and policies used by the children's division as of January 1, 2004.
45 3. In entering into and implementing contracts under subsection 2 of this

46 section, the division shall consider and direct their efforts towards geographic
47 areas of the state, including Greene County, where eligible direct children's
48 services providers and agencies are currently available and capable of providing
49 a broad range of services, including case management services, family-centered
50 services, foster and adoptive parent recruitment and retention, residential care,
51 family preservation services, foster care services, adoption services, relative care
52 case management, other planned living arrangements, and family reunification
53 services consistent with federal guidelines. Nothing in this subsection shall
54 prohibit the division from contracting on an as-needed basis for any individual
55 child welfare service listed above.

56 4. The contracts entered into under this section shall assure that:

57 (1) Child welfare services shall be delivered to a child and the child's
58 family by professionals who have substantial and relevant training, education, or
59 competencies otherwise demonstrated in the area of children and family services;

60 (2) Children's services providers and agencies shall be evaluated by the
61 division based on objective, consistent, and performance-based criteria;

62 (3) Any case management services provided shall be subject to a case
63 management plan established under subsection 5 of this section which is
64 consistent with all relevant federal guidelines. The case management plan shall
65 focus on attaining permanency in children's living conditions to the greatest
66 extent possible and shall include concurrent planning and independent living
67 where appropriate in accordance with the best interests of each child served and
68 considering relevant factors applicable to each individual case as provided by law,
69 including:

70 (a) The interaction and interrelationship of a child with the child's foster
71 parents, biological or adoptive parents, siblings, and any other person who may
72 significantly affect the child's best interests;

73 (b) A child's adjustment to his or her foster home, school, and community;

74 (c) The mental and physical health of all individuals involved, including
75 any history of abuse of or by any individuals involved;

76 (d) The needs of the child for a continuing relationship with the child's
77 biological or adoptive parents and the ability and willingness of the child's
78 biological or adoptive parents to actively perform their functions as parents with
79 regard to the needs of the child; and

80 (e) For any child under ten years old, treatment services may be available
81 as defined in section 210.110. Assessments, as defined in section 210.110, may

occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Time frames in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an

118 appropriate level of services shall be provided to the child and family after
119 permanency is achieved to assure a continued successful outcome.

120 6. **The division shall convene a task force to review the**
121 **recruitment, licensing and retention of foster and adoptive parents**
122 **statewide. In addition to representatives of the division and**
123 **department, the task force shall include representatives of the private**
124 **sector and faith-based community which provide recruitment and**
125 **licensure services. The purpose of the task force shall be to study the**
126 **extent to which changes in the system of recruiting, licensing, and**
127 **retaining foster and adoptive parents would enhance the effectiveness**
128 **of the system statewide. The task force shall develop a report of its**
129 **findings with recommendations by December 1, 2011, and provide**
130 **copies of the report to the general assembly and to the governor.**

131 **7.** On or before July 15, 2006, and each July fifteenth thereafter that the
132 project is in operation, the division shall submit a report to the general assembly
133 which shall include:

134 (1) Details about the specifics of the contracts, including the number of
135 children and families served, the cost to the state for contracting such services,
136 the current status of the children and families served, an assessment of the
137 quality of services provided and outcomes achieved, and an overall evaluation of
138 the project; and

139 (2) Any recommendations regarding the continuation or possible statewide
140 implementation of such project; and

141 (3) Any information or recommendations directly related to the provision
142 of direct services for children and their families that any of the contracting
143 children's services providers and agencies request to have included in the report.

144 **[**7.**]** **8.** The division shall accept as prima facie evidence of completion of
145 the requirements for licensure under sections 210.481 to 210.511 proof that an
146 agency is accredited by any of the following nationally recognized bodies: the
147 Council on Accreditation of Services, Children and Families, Inc.; the Joint
148 Commission on Accreditation of Hospitals; or the Commission on Accreditation
149 of Rehabilitation Facilities. The division shall not require any further evidence
150 of qualification for licensure if such proof of voluntary accreditation is submitted.

151 **[**8.**]** **9.** By February 1, 2005, the children's division shall promulgate and
152 have in effect rules to implement the provisions of this section and, pursuant to
153 this section, shall define implementation plans and dates. Any rule or portion of

154 a rule, as that term is defined in section 536.010, that is created under the
155 authority delegated in this section shall become effective only if it complies with
156 and is subject to all of the provisions of chapter 536 and, if applicable, section
157 536.028. This section and chapter 536 are nonseverable and if any of the powers
158 vested with the general assembly pursuant to chapter 536 to review, to delay the
159 effective date, or to disapprove and annul a rule are subsequently held
160 unconstitutional, then the grant of rulemaking authority and any rule proposed
161 or adopted after August 28, 2004, shall be invalid and void.

210.496. The division may refuse to issue either a license or a provisional
2 license to an applicant, or may suspend or revoke the license or provisional
3 license of a licensee, who:

4 (1) Fails consistently to comply with the applicable provisions of sections
5 208.400 to 208.535 and the applicable rules promulgated thereunder;

6 (2) Violates any of the provisions of its license;

7 (3) Violates state laws or rules relating to the protection of children;

8 (4) Furnishes or makes any misleading or false statements or reports to
9 the division;

10 (5) Refuses to submit to the division any reports or refuses to make
11 available to the division any records required by the division in making an
12 investigation;

13 (6) Fails or refuses to admit authorized representatives of the division at
14 any reasonable time for the purpose of investigation;

15 (7) Fails or refuses to submit to an investigation by the division;

16 (8) Fails to provide, maintain, equip, and keep in safe and sanitary
17 condition the premises established or used for the care of children being served,
18 as required by law, rule, or ordinance applicable to the location of the foster home
19 or residential care facility; or

20 (9) Fails to provide financial resources adequate for the satisfactory care
21 of and services to children being served and the upkeep of the premises.

22 **Nothing in this section shall be construed to permit discrimination on**
23 **the basis of disability or disease of an applicant. The disability or**
24 **disease of an applicant shall not constitute a basis for a determination**
25 **that the applicant is unfit or not suitable to be a foster parent without**
26 **a specific showing that there is a causal relationship between the**
27 **disability or disease and a substantial and significant risk of harm to**
28 **a child or an inability to perform the duties of a foster parent. In cases**

29 **involving an applicant with a disability or disease, determinations**
30 **made under this section shall consider the availability and use of**
31 **accommodations for the disability or disease, including but not limited**
32 **to assistive technology and support services.**

210.498. Any parent or legal guardian may have access to investigation
2 records kept by the division regarding a decision for the denial of or the
3 suspension or revocation of a license to a specific person to operate or maintain
4 a foster home if such specific person does or may provide services or care to a
5 child of the person requesting the information. The request for the release of
6 such information shall be made to the division director or the director's designee,
7 in writing, by the parent or legal guardian of the child and shall be accompanied
8 with a signed and notarized release form from the person who does or may
9 provide care or services to the child. The notarized release form shall include the
10 full name, date of birth and Social Security number of the person who does or
11 may provide care or services to a child. The response shall include **only**
12 information pertaining to the nature and disposition of any denial, suspension or
13 revocation of a license to operate a foster home. This response shall not include
14 any identifying information regarding any person other than the person to whom
15 a foster home license was denied, suspended or revoked. The response shall be
16 given within ten working days of the time it was received by the division.

210.565. 1. Whenever a child is placed in a foster home and the court has
2 determined pursuant to subsection 3 of this section that foster home placement
3 with relatives is not contrary to the best interest of the child, the children's
4 division shall give foster home placement to relatives of the
5 child. Notwithstanding any rule of the division to the contrary, the children's
6 division shall make diligent efforts to locate the grandparents of the child and
7 determine whether they wish to be considered for placement of the
8 child. Grandparents who request consideration shall be given preference and
9 first consideration for foster home placement of the child. If more than one
10 grandparent requests consideration, the family support team shall make
11 recommendations to the juvenile or family court about which grandparent should
12 be considered for placement.

13 2. As used in this section, the term "relative" means a grandparent or any
14 other person related to another by blood or affinity within the third degree. The
15 status of a grandparent shall not be affected by the death or the dissolution of the
16 marriage of a son or daughter.

3. **The following shall be the order or preference for placement of a child under this section:**

(1) Grandparents and relatives;

(2) A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and

(3) Any foster parent who is currently licensed and capable of accepting placement of the child.

4. The preference for placement and first consideration for grandparents or preference for placement with other relatives created by this section shall only apply where the court finds that placement with such grandparents or other relatives is not contrary to the best interest of the child considering all circumstances. If the court finds that it is contrary to the best interest of a child to be placed with grandparents or other relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than grandparents or other relatives.

5. Recognizing the critical nature of sibling bonds for children, the children's division shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the children's division shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.

[4.**]** **6.** The age of the child's grandparent or other relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such grandparent or other relative.

[5.**]** **7.** For any Native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

[6.**]** **8.** A grandparent or other relative may, on a case-by-case basis, have standards for licensure not related to safety waived for specific children in care that would otherwise impede licensing of the grandparent's or relative's home. **In addition, any person receiving a preference may be licensed in an**

53 **expedited manner if a child is placed under such person's care.**

54 **[**7.**] 9.** The guardian ad litem shall ascertain the child's wishes and
55 feelings about his or her placement by conducting an interview or interviews with
56 the child, if appropriate based on the child's age and maturity level, which shall
57 be considered as a factor in placement decisions and recommendations, but shall
58 not supersede the preference for relative placement created by this section or be
59 contrary to the child's best interests.

210.566. 1. (1) The children's division and its contractors, recognizing
2 that foster parents are not clients but rather are colleagues in the child welfare
3 team, shall treat foster parents in a manner consistent with the National
4 Association of Social Workers' ethical standards of conduct as described in its
5 Social Workers' Ethical Responsibilities to Colleagues. Foster parents shall treat
6 the children in their care, the child's birth family and members of the child
7 welfare team in a manner consistent with their ethical responsibilities as
8 professional team members.

9 (2) The children's division and its contractors shall provide written
10 notification of the rights enumerated in this section at the time of initial
11 licensure and at the time of each licensure renewal following the initial licensure
12 period.

13 2. (1) The children's division and its contractors shall provide foster
14 parents with regularly scheduled opportunities for preservice training, and
15 regularly scheduled opportunities for pertinent inservice training, as determined
16 by the Missouri State Foster Care and Adoption Advisory Board.

17 (2) The children's division and its contractors shall provide to foster
18 parents and potential adoptive parents, prior to placement, all pertinent
19 information, including but not limited to full disclosure of all medical,
20 psychological, and psychiatric conditions of the child, as well as information from
21 previous placements that would indicate that the child or children may have a
22 propensity to cause violence to any member of the foster family home. The foster
23 parents shall be provided with any information regarding the child or the child's
24 family, including but not limited to the case plan, any family history of mental
25 or physical illness, sexual abuse of the child or sexual abuse perpetrated by the
26 child, criminal background of the child or the child's family, fire-setting or other
27 destructive behavior by the child, substance abuse by the child or child's family,
28 or any other information which is pertinent to the care and needs of the child and
29 to protect the foster or adoptive family. Knowingly providing false or misleading

30 information to foster parents in order to secure placement shall be denoted in the
31 caseworker's personnel file and shall be kept on record by the division.
32 (3) The children's division and its contractors shall arrange preplacement
33 visits, except in emergencies.
34 (4) The foster parents may ask questions about the child's case plan,
35 encourage a placement or refuse a placement without reprisal from the
36 caseworker or agency. After a placement, the children's division and its
37 contractors shall update the foster parents as new information about the child is
38 gathered.
39 (5) Foster parents shall be informed in a timely manner by the children's
40 division and its contractors of all team meetings and staffings concerning their
41 licensure status or children placed in their homes, and shall be allowed to
42 participate, consistent with section 210.761.
43 (6) The children's division and its contractors shall establish reasonably
44 accessible respite care for children in foster care for short periods of time, jointly
45 determined by foster parents and the child's caseworker pursuant to section
46 210.545. Foster parents shall follow all procedures established by the children's
47 division and its contractors for requesting and using respite care.
48 (7) Foster parents shall treat all information received from the children's
49 division and its contractors about the child and the child's family as
50 confidential. Information necessary for the medical or psychiatric care of the
51 child may be provided to the appropriate practitioners. Foster parents may share
52 information necessary with school personnel in order to secure a safe and
53 appropriate education for the child. Additionally, foster parents shall share
54 information they may learn about the child and the child's family, and concerns
55 that arise in the care of the child, with the caseworker and other members of the
56 child welfare team. Recognizing that placement changes are difficult for children,
57 foster parents shall seek all necessary information, and participate in
58 preplacement visits whenever possible, before deciding whether to accept a child
59 for placement.
60 3. (1) Foster parents shall make decisions about the daily living concerns
61 of the child, and shall be permitted to continue the practice of their own family
62 values and routines while respecting the child's cultural heritage. All discipline
63 shall be consistent with state laws and regulations. The children's division shall
64 allow foster parents to help plan visitation between the child and the child's
65 siblings or biological family. Visitations should be scheduled at a time that meets

66 the needs of the child, the biological family members, and the foster family
67 whenever possible. Recognizing that visitation with family members is an
68 important right of children in foster care, foster parents shall be flexible and
69 cooperative with regard to family visits.

70 (2) Foster parents shall provide care that is respectful of the child's
71 cultural identity and needs. Recognizing that cultural competence can be
72 learned, the children's division and their contractors shall provide foster parents
73 with training that specifically addresses cultural needs of children, including but
74 not limited to, information on skin and hair care, information on any specific
75 religious or cultural practices of the child's biological family, and referrals to
76 community resources for ongoing education and support.

77 (3) Foster parents shall recognize that the purpose of discipline is to teach
78 and direct the behavior of the child, and ensure that it is administered in a
79 humane and sensitive manner. Foster parents shall use discipline methods which
80 are consistent with children's division policy.

81 4. (1) Consistent with state laws and regulations, the children's division
82 and its contractors shall provide, upon request by the foster parents, information
83 about a child's progress after the child leaves foster care.

84 (2) Except in emergencies, foster parents shall be given two weeks
85 advance notice and a written statement of the reasons before a child is removed
86 from their care. When requesting removal of a child from their home, foster
87 parents shall give two weeks advance notice, consistent with division policy, to
88 the child's caseworker, except in emergency situations.

89 (3) Recognizing the critical nature of attachment for children, if a child
90 reenters the foster care system and is not placed in a relative home, the child's
91 former foster parents shall be given first consideration for placement of the child.

92 (4) **Recognizing the critical nature of sibling bonds for children,**
93 **the children's division shall make reasonable efforts to place siblings**
94 **in the same foster care, kinship, guardianship, or adoptive placement,**
95 **unless doing so would be contrary to the safety or well-being of any of**
96 **the siblings. If siblings are not placed together, the children's division**
97 **shall make reasonable efforts to provide frequent visitation or other**
98 **ongoing interaction between the siblings, unless this interaction would**
99 **be contrary to a sibling's safety or well-being.**

100 **(5)** If a child becomes free for adoption while in foster care, the child's
101 foster family shall be given preferential consideration as adoptive parents

102 consistent with section 453.070, RSMo.

103 **[**(5)**]** **(6)** If a foster child becomes free for adoption and the foster parents
104 desire to adopt the child, they shall inform the caseworker within sixty days of
105 the caseworker's initial query. If they do not choose to pursue adoption, foster
106 parents shall make every effort to support and encourage the child's placement
107 in a permanent home, including but not limited to providing information on the
108 history and care needs of the child and accommodating transitional visitation.

109 5. Foster parents shall be informed by the court no later than two weeks
110 prior to all court hearings pertaining to a child in their care, and informed of
111 their right to attend and participate, consistent with section 211.464, RSMo.

112 6. The children's division and their contractors shall provide access to a
113 fair and impartial grievance process to address licensure, case management
114 decisions, and delivery of service issues. Foster parents shall have timely access
115 to the child placement agency's appeals process, and shall be free from acts of
116 retaliation when exercising the right to appeal.

117 7. The children's division and their contractors shall provide training to
118 foster parents on the policies and procedures governing the licensure of foster
119 homes, the provision of foster care, and the adoption process. Foster parents
120 shall, upon request, be provided with written documentation of the policies of the
121 children's division and their contractors. Per licensure requirements, foster
122 parents shall comply with the policies of the child placement agency.

123 8. For purposes of this section, "foster parent" means a resource family
124 providing care of children in state custody.

210.617. 1. There is hereby created within the department of
2 **social services the "Missouri State Foster Care and Adoption Board",**
3 **which shall provide consultation and assistance to the department and**
4 **shall draft and provide an independent review of the children's division**
5 **policies and procedures related to the provision of foster care and**
6 **adoption in Missouri. Additionally, the board shall determine the**
7 **nature and content of in-service training which shall be provided to**
8 **foster and adoptive parents in order to improve the provision of foster**
9 **care and adoption services to children statewide consistent with**
10 **section 210.566. The board shall be comprised of foster and adoptive**
11 **parents as follows:**

12 **(1) Two members from each of the seven children's division areas**
13 **within the department of social services delineated as follows:**

14 **(a) The northwest region;**
15 **(b) The northeast region;**
16 **(c) The southeast region;**
17 **(d) The southwest region;**
18 **(e) The Kansas City region;**
19 **(f) The St. Louis area region;**
20 **(g) The St. Louis City region;**
21 **(2) Area members shall be appointed by the governor, with the**
22 **advice and consent of the senate, based upon recommendations by**
23 **regional foster care and adoption boards, or other similar entities.**
24 **2. Statewide foster care and adoption association representatives**
25 **shall be voting members of the board as approved by the board.**
26 **3. All members of the board shall serve for a term of at least two**
27 **years. Members may be re-appointed to the board by their entities for**
28 **consecutive terms. All vacancies on the board shall be filled for the**
29 **balance of the unexpired term in the same manner in which the board**
30 **membership which is vacant was originally filled.**
31 **4. Each member of the board may be reimbursed for actual and**
32 **necessary expenses incurred by the member in performance of his or**
33 **her official duties. All reimbursements made under this subsection**
34 **shall be made from funds within the department of social services'**
35 **children's division budget.**
36 **5. All business transactions of the board shall be conducted in**
37 **public meetings in accordance with sections 610.010 to 610.030.**
38 **6. The board shall elect officers from the membership consisting**
39 **of a chairperson, co-chairperson, and secretary. Officers shall serve for**
40 **a term of two years. The board may elect such other officers and**
41 **establish such committees as it deems appropriate.**
42 **7. The board shall establish such procedures necessary to:**
43 **(1) Review children's division proposed policy and provide**
44 **written opinions and recommendations for change to the children's**
45 **division within thirty days of receipt of the proposed policy;**
46 **(2) Provide draft policy suggestions, at the request of the**
47 **children's division or in response to issues by the board, to the**
48 **children's division for improvements in foster care or adoption**
49 **practice; and**
50 **(3) Fulfill its statutory requirement in accordance with section**

210.566 to determine the content of in-service training to be provided by the children's division to foster and adoptive parents.

8. The board shall provide to the director of the department of social services, the governor, the office of the child advocate, and upon request, members of the general assembly, a written report of annual activities conducted and made.

9. The board shall exercise its powers and duties independently of the children's division within the department of social services in order to ensure partnership and accountability in the provision of services to the state's children affected by abuse and neglect. Budgetary, procurement, and accounting functions shall continue to be performed by the children's division.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the

county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent jurisdiction with the circuit court on any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

61 (1) Prior to the filing of a petition and upon request of any party or at the
62 discretion of the juvenile officer, the matter in the interest of a child or person
63 seventeen years of age may be transferred by the juvenile officer, with the prior
64 consent of the juvenile officer of the receiving court, to the county of the child's
65 residence or the residence of the person seventeen years of age for future action;
66 (2) Upon the motion of any party or on its own motion prior to final
67 disposition on the pending matter, the court in which a proceeding is commenced
68 may transfer the proceeding of a child or person seventeen years of age to the
69 court located in the county of the child's residence or the residence of the person
70 seventeen years of age, or the county in which the offense pursuant to subdivision
71 (3) of subsection 1 of this section is alleged to have occurred for further action;
72 (3) Upon motion of any party or on its own motion, the court in which
73 jurisdiction has been taken pursuant to subsection 1 of this section may at any
74 time thereafter transfer jurisdiction of a child or person seventeen years of age
75 to the court located in the county of the child's residence or the residence of the
76 person seventeen years of age for further action with the prior consent of the
77 receiving court;
78 (4) Upon motion of any party or upon its own motion at any time following
79 a judgment of disposition or treatment pursuant to section 211.181, the court
80 having jurisdiction of the cause may place the child or person seventeen years of
81 age under the supervision of another juvenile court within or without the state
82 pursuant to section 210.570 with the consent of the receiving court;
83 (5) Upon motion of any child or person seventeen years of age or his or
84 her parent, the court having jurisdiction shall grant one change of judge pursuant
85 to Missouri Supreme Court Rules;
86 (6) Upon the transfer of any matter, proceeding, jurisdiction or
87 supervision of a child or person seventeen years of age, certified copies of all legal
88 and social documents and records pertaining to the case on file with the clerk of
89 the transferring juvenile court shall accompany the transfer.
90 3. In any proceeding involving any child or person seventeen years of age
91 taken into custody in a county other than the county of the child's residence or
92 the residence of a person seventeen years of age, the juvenile court of the county
93 of the child's residence or the residence of a person seventeen years of age shall
94 be notified of such taking into custody within seventy-two hours.
95 4. When an investigation by a juvenile officer pursuant to this section
96 reveals that the only basis for action involves an alleged violation of section

97 167.031 involving a child who alleges to be home schooled, the juvenile officer
98 shall contact a parent or parents of such child to verify that the child is being
99 home schooled and not in violation of section 167.031 before making a report of
100 such a violation. Any report of a violation of section 167.031 made by a juvenile
101 officer regarding a child who is being home schooled shall be made to the
102 prosecuting attorney of the county where the child legally resides.

103 **5. The disability or disease of a parent shall not constitute a**
104 **basis for a determination that a child is a child in need of care or for**
105 **the removal of custody of a child from the parent without a specific**
106 **showing that there is a causal relation between the disability or disease**
107 **and harm to the child.**

108 **6. In cases involving a parent with a disability or disease,**
109 **determinations made under this section shall consider the availability**
110 **and use of accommodations for the disability or disease, including**
111 **assistive technology and support services.**

211.447. 1. Any information that could justify the filing of a petition to
2 terminate parental rights may be referred to the juvenile officer by any
3 person. The juvenile officer shall make a preliminary inquiry and if it does not
4 appear to the juvenile officer that a petition should be filed, such officer shall so
5 notify the informant in writing within thirty days of the referral. Such
6 notification shall include the reasons that the petition will not be
7 filed. Thereupon, the informant may bring the matter directly to the attention
8 of the judge of the juvenile court by presenting the information in writing, and
9 if it appears to the judge that the information could justify the filing of a petition,
10 the judge may order the juvenile officer to take further action, including making
11 a further preliminary inquiry or filing a petition.

12 2. Except as provided for in subsection 4 of this section, a petition to
13 terminate the parental rights of the child's parent or parents shall be filed by the
14 juvenile officer or the division, or if such a petition has been filed by another
15 party, the juvenile officer or the division shall seek to be joined as a party to the
16 petition, when:

17 (1) Information available to the juvenile officer or the division establishes
18 that the child has been in foster care for at least fifteen of the most recent
19 twenty-two months; or

20 (2) A court of competent jurisdiction has determined the child to be an
21 abandoned infant. For purposes of this subdivision, an "infant" means any child

22 one year of age or under at the time of filing of the petition. The court may find
23 that an infant has been abandoned if:
24 (a) The parent has left the child under circumstances that the identity of
25 the child was unknown and could not be ascertained, despite diligent searching,
26 and the parent has not come forward to claim the child; or
27 (b) The parent has, without good cause, left the child without any
28 provision for parental support and without making arrangements to visit or
29 communicate with the child, although able to do so; or
30 (3) A court of competent jurisdiction has determined that the parent has:
31 (a) Committed murder of another child of the parent; or
32 (b) Committed voluntary manslaughter of another child of the parent; or
33 (c) Aided or abetted, attempted, conspired or solicited to commit such a
34 murder or voluntary manslaughter; or
35 (d) Committed a felony assault that resulted in serious bodily injury to
36 the child or to another child of the parent.
37 3. A termination of parental rights petition shall be filed by the juvenile
38 officer or the division, or if such a petition has been filed by another party, the
39 juvenile officer or the division shall seek to be joined as a party to the petition,
40 within sixty days of the judicial determinations required in subsection 2 of this
41 section, except as provided in subsection 4 of this section. Failure to comply with
42 this requirement shall not deprive the court of jurisdiction to adjudicate a
43 petition for termination of parental rights which is filed outside of sixty days.
44 4. If grounds exist for termination of parental rights pursuant to
45 subsection 2 of this section, the juvenile officer or the division may, but is not
46 required to, file a petition to terminate the parental rights of the child's parent
47 or parents if:
48 (1) The child is being cared for by a relative; or
49 (2) There exists a compelling reason for determining that filing such a
50 petition would not be in the best interest of the child, as documented in the
51 permanency plan which shall be made available for court review; or
52 (3) The family of the child has not been provided such services as provided
53 for in section 211.183.
54 5. The juvenile officer or the division may file a petition to terminate the
55 parental rights of the child's parent when it appears that one or more of the
56 following grounds for termination exist:
57 (1) The child has been abandoned. For purposes of this subdivision a

58 "child" means any child over one year of age at the time of filing of the
59 petition. The court shall find that the child has been abandoned if, for a period
60 of six months or longer:
61 (a) The parent has left the child under such circumstances that the
62 identity of the child was unknown and could not be ascertained, despite diligent
63 searching, and the parent has not come forward to claim the child; or
64 (b) The parent has, without good cause, left the child without any
65 provision for parental support and without making arrangements to visit or
66 communicate with the child, although able to do so;
67 (2) The child has been abused or neglected. In determining whether to
68 terminate parental rights pursuant to this subdivision, the court shall consider
69 and make findings on the following conditions or acts of the parent:
70 (a) A mental condition which is shown by competent evidence either to be
71 permanent or such that there is no reasonable likelihood that the condition can
72 be reversed and which renders the parent unable to knowingly provide the child
73 the necessary care, custody and control;
74 (b) Chemical dependency which prevents the parent from consistently
75 providing the necessary care, custody and control of the child and which cannot
76 be treated so as to enable the parent to consistently provide such care, custody
77 and control;
78 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
79 toward the child or any child in the family by the parent, including an act of
80 incest, or by another under circumstances that indicate that the parent knew or
81 should have known that such acts were being committed toward the child or any
82 child in the family; or
83 (d) Repeated or continuous failure by the parent, although physically or
84 financially able, to provide the child with adequate food, clothing, shelter, or
85 education as defined by law, or other care and control necessary for the child's
86 physical, mental, or emotional health and development**.**
87 **Nothing in this subdivision shall be construed to permit discrimination**
88 **on the basis of disability or disease**;
89 (3) The child has been under the jurisdiction of the juvenile court for a
90 period of one year, and the court finds that the conditions which led to the
91 assumption of jurisdiction still persist, or conditions of a potentially harmful
92 nature continue to exist, that there is little likelihood that those conditions will
93 be remedied at an early date so that the child can be returned to the parent in

94 the near future, or the continuation of the parent-child relationship greatly
95 diminishes the child's prospects for early integration into a stable and permanent
96 home. In determining whether to terminate parental rights under this
97 subdivision, the court shall consider and make findings on the following:
98 (a) The terms of a social service plan entered into by the parent and the
99 division and the extent to which the parties have made progress in complying
100 with those terms;
101 (b) The success or failure of the efforts of the juvenile officer, the division
102 or other agency to aid the parent on a continuing basis in adjusting his
103 circumstances or conduct to provide a proper home for the child;
104 (c) A mental condition which is shown by competent evidence either to be
105 permanent or such that there is no reasonable likelihood that the condition can
106 be reversed and which renders the parent unable to knowingly provide the child
107 the necessary care, custody and control;
108 (d) Chemical dependency which prevents the parent from consistently
109 providing the necessary care, custody and control over the child and which cannot
110 be treated so as to enable the parent to consistently provide such care, custody
111 and control; or
112 (4) The parent has been found guilty or pled guilty to a felony violation
113 of chapter 566 when the child or any child in the family was a victim, or a
114 violation of section 568.020 when the child or any child in the family was a
115 victim. As used in this subdivision, a "child" means any person who was under
116 eighteen years of age at the time of the crime and who resided with such parent
117 or was related within the third degree of consanguinity or affinity to such parent;
118 or
119 (5) The child was conceived and born as a result of an act of forcible
120 rape. When the biological father has pled guilty to, or is convicted of, the forcible
121 rape of the birth mother, such a plea or conviction shall be conclusive evidence
122 supporting the termination of the biological father's parental rights; or
123 (6) The parent is unfit to be a party to the parent and child relationship
124 because of a consistent pattern of committing a specific abuse, including but not
125 limited to, abuses as defined in section 455.010, child abuse or drug abuse before
126 the child or of specific conditions directly relating to the parent and child
127 relationship either of which are determined by the court to be of a duration or
128 nature that renders the parent unable, for the reasonably foreseeable future, to
129 care appropriately for the ongoing physical, mental or emotional needs of the

child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

166 9. In actions for adoption pursuant to chapter 453, the court may hear and
167 determine the issues raised in a petition for adoption containing a prayer for
168 termination of parental rights filed with the same effect as a petition permitted
169 pursuant to subsection 2, 4, or 5 of this section.

170 **10. The disability or disease of a parent shall not constitute a**
171 **basis for a termination of parental rights without a specific showing**
172 **that there is a causal relation between the disability or disease and**
173 **harm to the child.**

174 **11. In cases involving a parent with a disability or disease,**
175 **determinations made under this section shall consider the availability**
176 **and use of accommodations for the disability or disease, including**
177 **assistive technology and support services.**

453.070. 1. Except as provided in subsection 5 of this section, no decree
2 for the adoption of a child under eighteen years of age shall be entered for the
3 petitioner or petitioners in such adoption as ordered by the juvenile court having
4 jurisdiction, until a full investigation, which includes an assessment of the
5 adoptive parents, an appropriate postplacement assessment and a summary of
6 written reports as provided for in section 453.026, and any other pertinent
7 information relevant to whether the child is suitable for adoption by the
8 petitioner and whether the petitioner is suitable as a parent for the child, has
9 been made. The report shall also include a statement to the effect that the child
10 has been considered as a potential subsidy recipient.

11 2. Such investigation shall be made, as directed by the court having
12 jurisdiction, either by the division of family services of the state department of
13 social services, a juvenile court officer, a licensed child-placement agency, a social
14 worker licensed pursuant to chapter 337, or other suitable person appointed by
15 the court. The results of such investigation shall be embodied in a written report
16 that shall be submitted to the court within ninety days of the request for the
17 investigation.

18 3. The department of social services, division of family services, shall
19 develop rules and regulations regarding the content of the assessment of the
20 petitioner or petitioners. The content of the assessment shall include but not be
21 limited to, a report on the condition of the petitioner's home and information on
22 the petitioner's education, financial, marital, medical and psychological status
23 and criminal background check. If an assessment is conducted after August 28,
24 1997, but prior to the promulgation of rules and regulations by the department

concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

(3) In cases involving a prospective adoptive parent with a disability or disease, determinations made under this section shall

consider the availability and use of accommodations for the disability or disease, including but not limited to assistive technology and support services.

453.600. 1. There is hereby created in the state treasury the "Foster Care and Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts, donations, transfers, and moneys appropriated by the general assembly, and bequests to the fund. The fund shall maintain no more than the total of the last two years of funding or a minimum of three hundred thousand dollars, whichever is greater. The fund shall be administered by the foster care and adoptive parents recruitment and retention fund board created in subsection 3 of this section.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

3. There is hereby created the "Foster Care and Adoptive Parents Recruitment and Retention Fund Board" within the department of social services. The board shall consist of the following members or their designees:

(1) The director of the department of social services;

(2) The director of the department of mental health;

(3) The director of the department of health and senior services;

(4) The following six members to be appointed by the director of the department of social services:

(a) Two representatives of a recognized foster parent association;

(b) Two representatives of a licensed child-placing agency; and

(c) Two representatives of a licensed residential treatment center.

Members appointed under subdivision (4) of this subsection shall serve three-year terms, subject to reappointment. Of the members initially appointed, three shall be appointed for a two-year term and three shall be appointed three-year terms. All members of the board shall serve

35 **without compensation but shall, subject to appropriation, be**
36 **reimbursed for reasonable and necessary expenses actually incurred in**
37 **the performance of their official duties as members of the board. The**
38 **department of social services shall, with existing resources, provide**
39 **administrative support and current staff as necessary for the effective**
40 **operation of the board.**

41 **4. Upon appropriation, moneys in the fund shall be used to grant**
42 **awards to licensed community-based foster care and adoption**
43 **recruitment programs. The board shall establish guidelines for**
44 **disbursement of the fund to certain programs. Such programs shall**
45 **include, but not be limited to, recruitment and retention of foster and**
46 **adoptive families for children who:**

47 **(1) Have been in out-of-home placement for fifteen months or**
48 **more;**

49 **(2) Are more than twelve years of age; or**

50 **(3) Are in sibling groups.**

51 **Moneys in the fund shall not be subject to appropriation for purposes**
52 **other than those of evidence-based foster care and adoption programs**
53 **as designated by the board established under this section.**

54 **5. Under section 23.253 of the Missouri sunset act:**

55 **(1) The provisions of the new fund authorized under this section**
56 **shall automatically sunset six years after August 28, 2011, unless**
57 **reauthorized by an act of the general assembly; and**

58 **(2) If such fund is reauthorized, the fund authorized under this**
59 **section shall automatically sunset twelve years after the effective date**
60 **of the reauthorization of this section; and**

61 **(3) This section shall terminate on December thirty-first of the**
62 **calendar year immediately following the calendar year in which the**
63 **fund authorized under this section is sunset.**

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