

FIRST REGULAR SESSION

HOUSE BILL NO. 557

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), HUBBARD, KELLY (45), BURNS,
KIRKTON, MORGAN, MCNEIL, HUMMEL, SWEARINGEN, CONWAY (10),
MIMS AND MCKENNA (Co-sponsors).

1272L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.110, 210.145, 210.152, and 210.153, RSMo, and to enact in lieu thereof four new sections relating to the child abuse and neglect registry, with penalty provisions.

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

Section A. Sections 210.110, 210.145, 210.152, and 210.153, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 210.110, 210.145, 210.152,
3 and 210.153, to read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the
2 following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,
5 except that discipline including spanking, administered in a reasonable manner, shall not be
6 construed to be abuse;

7 (2) "Assessment and treatment services for children under ten years old", an approach
8 to be developed by the children's division which will recognize and treat the specific needs of
9 at-risk and abused or neglected children under the age of ten. The developmental and medical
10 assessment may be a broad physical, developmental, and mental health screening to be
11 completed within thirty days of a child's entry into custody and every six months thereafter as
12 long as the child remains in care. Screenings may be offered at a centralized location and
13 include, at a minimum, the following:

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.

14 (a) Complete physical to be performed by a pediatrician familiar with the effects of abuse
15 and neglect on young children;

16 (b) Developmental, behavioral, and emotional screening in addition to early periodic
17 screening, diagnosis, and treatment services, including a core set of standardized and recognized
18 instruments as well as interviews with the child and appropriate caregivers. The screening
19 battery may be performed by a licensed mental health professional familiar with the effects of
20 abuse and neglect on young children, who will then serve as the liaison between all service
21 providers in ensuring that needed services are provided. Such treatment services may include
22 in-home services, out-of-home placement, intensive twenty-four-hour treatment services, family
23 counseling, parenting training and other best practices.

24

25 Children whose screenings indicate an area of concern may complete a comprehensive, in-depth
26 health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

27 (3) "Central registry", a registry of persons where the division has found probable cause
28 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
29 or a court has substantiated through court adjudication that the individual has committed child
30 abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to
31 section 565.020, 565.021, 565.023, 565.024 or 565.050 if the victim is a child less than eighteen
32 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,
33 or other crime pursuant to chapter 566 if the victim is a child less than eighteen years of age and
34 the perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less
35 than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or
36 568.090, section 573.025 or 573.035, or an attempt to commit any such crimes. Any persons
37 placed on the registry [prior to August 28, 2004,] shall remain on the registry for the duration of
38 time required by section 210.152;

39 (4) "Child", any person, regardless of physical or mental condition, under eighteen years
40 of age;

41 (5) "Children's services providers and agencies", any public, quasi-public, or private
42 entity with the appropriate and relevant training and expertise in delivering services to children
43 and their families as determined by the children's division, and capable of providing direct
44 services and other family services for children in the custody of the children's division or any
45 such entities or agencies that are receiving state moneys for such services;

46 (6) "Director", the director of the Missouri children's division within the department of
47 social services;

48 (7) "Division", the Missouri children's division within the department of social services;

49 (8) "Family assessment and services", an approach to be developed by the children's
50 division which will provide for a prompt assessment of a child who has been reported to the
51 division as a victim of abuse or neglect by a person responsible for that child's care, custody or
52 control and of that child's family, including risk of abuse and neglect and, if necessary, the
53 provision of community-based services to reduce the risk and support the family;

54 (9) "Family support team meeting" or "team meeting", a meeting convened by the
55 division or children's services provider in behalf of the family and/or child for the purpose of
56 determining service and treatment needs, determining the need for placement and developing a
57 plan for reunification or other permanency options, determining the appropriate placement of the
58 child, evaluating case progress, and establishing and revising the case plan;

59 (10) "Investigation", the collection of physical and verbal evidence to determine if a
60 child has been abused or neglected;

61 (11) "Jail or detention center personnel", employees and volunteers working in any
62 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
63 provided to persons who are being held under custody of the law;

64 (12) "Neglect", failure to provide, by those responsible for the care, custody, and control
65 of the child, the proper or necessary support, education as required by law, nutrition or medical,
66 surgical, or any other care necessary for the child's well-being;

67 (13) "Preponderance of the evidence", that degree of evidence that is of greater weight
68 or more convincing than the evidence which is offered in opposition to it or evidence which as
69 a whole shows the fact to be proved to be more probable than not;

70 (14) "Probable cause", available facts when viewed in the light of surrounding
71 circumstances which would cause a reasonable person to believe a child was abused or
72 neglected;

73 (15) "Report", the communication of an allegation of child abuse or neglect to the
74 division pursuant to section 210.115;

75 (16) "Those responsible for the care, custody, and control of the child", those included
76 but not limited to the parents or guardian of a child, other members of the child's household, or
77 those exercising supervision over a child for any part of a twenty-four-hour day. Those
78 responsible for the care, custody and control shall also include any adult who, based on
79 relationship to the parents of the child, members of the child's household or the family, has
80 access to the child.

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where child abuse or
3 neglect has been alleged;

4 (2) Promoting the preservation and reunification of children and families consistent with
5 state and federal law;

6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of receiving and
8 maintaining reports. This information system shall have the ability to receive reports over a
9 single, statewide toll-free number. Such information system shall maintain the results of all
10 investigations, family assessments and services, and other relevant information.

11 2. The division shall utilize structured decision-making protocols for classification
12 purposes of all child abuse and neglect reports **consistent with the classification tiers of severe,**
13 **moderate, or mild risk established in subsection 1 of section 210.152 for identifying**
14 **information contained in the central registry under section 210.152.** The protocols
15 developed by the division shall give priority to ensuring the well-being and safety of the child.
16 All child abuse and neglect reports shall be initiated within twenty-four hours and shall be
17 classified based upon the reported risk and injury to the child. The division shall promulgate
18 rules regarding the structured decision-making protocols to be utilized for all child abuse and
19 neglect reports.

20 3. Upon receipt of a report, the division shall determine if the report merits investigation,
21 including reports which if true would constitute a suspected violation of any of the following:
22 section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen
23 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,
24 or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the
25 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than
26 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or
27 568.090, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such
28 crimes. The division shall immediately communicate all reports that merit investigation to its
29 appropriate local office and any relevant information as may be contained in the information
30 system. The local division staff shall determine, through the use of protocols developed by the
31 division, whether an investigation or the family assessment and services approach should be used
32 to respond to the allegation. The protocols developed by the division shall give priority to
33 ensuring the well-being and safety of the child.

34 4. When the child abuse and neglect hotline receives three or more calls, within a
35 seventy-two hour period, from one or more individuals concerning the same child, the division
36 shall conduct a review to determine whether the calls meet the criteria and statutory definition
37 for a child abuse and neglect report to be accepted. In conducting the review, the division shall
38 contact the hotline caller or callers in order to collect information to determine whether the calls
39 meet the criteria for harassment.

40 5. The local office shall contact the appropriate law enforcement agency immediately
41 upon receipt of a report which division personnel determine merits an investigation and provide
42 such agency with a detailed description of the report received. In such cases the local division
43 office shall request the assistance of the local law enforcement agency in all aspects of the
44 investigation of the complaint. The appropriate law enforcement agency shall either assist the
45 division in the investigation or provide the division, within twenty-four hours, an explanation
46 in writing detailing the reasons why it is unable to assist.

47 6. The local office of the division shall cause an investigation or family assessment and
48 services approach to be initiated in accordance with the protocols established in subsection 2 of
49 this section, except in cases where the sole basis for the report is educational neglect. If the
50 report indicates that educational neglect is the only complaint and there is no suspicion of other
51 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
52 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
53 investigation shall include direct observation of the subject child within twenty-four hours of the
54 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
55 observation. Callers to the child abuse and neglect hotline shall be instructed by the division's
56 hotline to call 911 in instances where the child may be in immediate danger. If the parents of the
57 child are not the alleged abusers, a parent of the child must be notified prior to the child being
58 interviewed by the division. No person responding to or investigating a child abuse and neglect
59 report shall call prior to a home visit or leave any documentation of any attempted visit, such as
60 business cards, pamphlets, or other similar identifying information if he or she has a reasonable
61 basis to believe the following factors are present:

- 62 (1) (a) No person is present in the home at the time of the home visit; and
63 (b) The alleged perpetrator resides in the home or the physical safety of the child may
64 be compromised if the alleged perpetrator becomes aware of the attempted visit;
65 (2) The alleged perpetrator will be alerted regarding the attempted visit; or
66 (3) The family has a history of domestic violence or fleeing the community.

67

68 If the alleged perpetrator is present during a visit by the person responding to or investigating the
69 report, such person shall provide written material to the alleged perpetrator informing him or her
70 of his or her rights regarding such visit, including but not limited to the right to contact an
71 attorney. The alleged perpetrator shall be given a reasonable amount of time to read such written
72 material or have such material read to him or her by the case worker before the visit commences,
73 but in no event shall such time exceed five minutes; except that, such requirement to provide
74 written material and reasonable time to read such material shall not apply in cases where the
75 child faces an immediate threat or danger, or the person responding to investigating the report

76 is or feels threatened or in danger of physical harm. If the abuse is alleged to have occurred in
77 a school or child care facility the division shall not meet with the child in any school building
78 or child-care facility building where abuse of such child is alleged to have occurred. When the
79 child is reported absent from the residence, the location and the well-being of the child shall be
80 verified. For purposes of this subsection, child care facility shall have the same meaning as such
81 term is defined in section 210.201.

82 7. The director of the division shall name at least one chief investigator for each local
83 division office, who shall direct the division response on any case involving a second or
84 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
85 investigator shall include verification of direct observation of the subject child by the division
86 and shall ensure information regarding the status of an investigation is provided to the public
87 school district liaison. The public school district liaison shall develop protocol in conjunction
88 with the chief investigator to ensure information regarding an investigation is shared with
89 appropriate school personnel. The superintendent of each school district shall designate a
90 specific person or persons to act as the public school district liaison. Should the subject child
91 attend a nonpublic school the chief investigator shall notify the school principal of the
92 investigation. Upon notification of an investigation, all information received by the public
93 school district liaison or the school shall be subject to the provisions of the federal Family
94 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
95 CFR, Part 99.

96 8. The investigation shall include but not be limited to the nature, extent, and cause of
97 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
98 names and conditions of other children in the home, if any; the home environment and the
99 relationship of the subject child to the parents or other persons responsible for the child's care;
100 any indication of incidents of physical violence against any other household or family member;
101 and other pertinent data.

102 9. When a report has been made by a person required to report under section 210.115,
103 the division shall contact the person who made such report within forty-eight hours of the receipt
104 of the report in order to ensure that full information has been received and to obtain any
105 additional information or medical records, or both, that may be pertinent.

106 10. Upon completion of the investigation, if the division suspects that the report was
107 made maliciously or for the purpose of harassment, the division shall refer the report and any
108 evidence of malice or harassment to the local prosecuting or circuit attorney.

109 11. Multidisciplinary teams shall be used whenever conducting the investigation as
110 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
111 shall be used in providing protective or preventive social services, including the services of law

112 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
113 other agencies, both public and private.

114 12. For all family support team meetings involving an alleged victim of child abuse or
115 neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian
116 of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be
117 provided notice and be permitted to attend all such meetings. Family members, other than
118 alleged perpetrators, or other community informal or formal service providers that provide
119 significant support to the child and other individuals may also be invited at the discretion of the
120 parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian
121 or custodian and the foster parents may request that other individuals, other than alleged
122 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
123 attends such team meetings, the division or the convenor of the meeting shall provide such
124 persons with notice of all such subsequent meetings involving the child. Families may determine
125 whether individuals invited at their discretion shall continue to be invited.

126 13. If the appropriate local division personnel determine after an investigation has begun
127 that completing an investigation is not appropriate, the division shall conduct a family
128 assessment and services approach. The division shall provide written notification to local law
129 enforcement prior to terminating any investigative process. The reason for the termination of
130 the investigative process shall be documented in the record of the division and the written
131 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
132 any investigation by law enforcement.

133 14. If the appropriate local division personnel determines to use a family assessment and
134 services approach, the division shall:

135 (1) Assess any service needs of the family. The assessment of risk and service needs
136 shall be based on information gathered from the family and other sources;

137 (2) Provide services which are voluntary and time-limited unless it is determined by the
138 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
139 family refuses to accept the services. The division shall identify services for families where it
140 is determined that the child is at high risk of future abuse or neglect. The division shall
141 thoroughly document in the record its attempt to provide voluntary services and the reasons these
142 services are important to reduce the risk of future abuse or neglect to the child. If the family
143 continues to refuse voluntary services or the child needs to be protected, the division may
144 commence an investigation;

145 (3) Commence an immediate investigation if at any time during the family assessment
146 and services approach the division determines that an investigation, as delineated in sections

147 210.109 to 210.183, is required. The division staff who have conducted the assessment may
148 remain involved in the provision of services to the child and family;

149 (4) Document at the time the case is closed, the outcome of the family assessment and
150 services approach, any service provided and the removal of risk to the child, if it existed.

151 15. Within thirty days of an oral report of abuse or neglect, the local office shall update
152 the information in the information system. The information system shall contain, at a minimum,
153 **the classification of risk and injury under subsection 2 of this section and subsection 1 of**
154 **section 210.152, the** determination made by the division as a result of the investigation,
155 identifying information on the subjects of the report, those responsible for the care of the subject
156 child, and other relevant dispositional information. The division shall complete all investigations
157 within thirty days, unless good cause for the failure to complete the investigation is documented
158 in the information system. If a child involved in a pending investigation dies, the investigation
159 shall remain open until the division's investigation surrounding the death is completed. If the
160 investigation is not completed within thirty days, the information system shall be updated at
161 regular intervals and upon the completion of the investigation. The information in the
162 information system shall be updated to reflect any **changes in classification under subsection**
163 **2 of this section or subsection 1 of section 210.152, or any** subsequent findings, including any
164 changes to the findings based on an administrative or judicial hearing on the matter.

165 16. A person required to report under section 210.115 to the division and any person
166 making a report of child abuse or neglect made to the division which is not made anonymously
167 shall be informed by the division of his or her right to obtain information concerning the
168 disposition of his or her report. Such person shall receive, from the local office, if requested,
169 information on the general disposition of his or her report. Such person may receive, if
170 requested, findings and information concerning the case. Such release of information shall be
171 at the discretion of the director based upon a review of the reporter's ability to assist in protecting
172 the child or the potential harm to the child or other children within the family. The local office
173 shall respond to the request within forty-five days. The findings shall be made available to the
174 reporter within five days of the outcome of the investigation. If the report is determined to be
175 unsubstantiated, the reporter may request that the report be referred by the division to the office
176 of child advocate for children's protection and services established in sections 37.700 to 37.730.
177 Upon request by a reporter under this subsection, the division shall refer an unsubstantiated
178 report of child abuse or neglect to the office of child advocate for children's protection and
179 services.

180 17. The division shall provide to any individual who is not satisfied with the results of
181 an investigation information about the office of child advocate and the services it may provide
182 under sections 37.700 to 37.730.

183 18. In any judicial proceeding involving the custody of a child the fact that a report may
184 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

185 (1) Nothing in this subsection shall prohibit the introduction of evidence from
186 independent sources to support the allegations that may have caused a report to have been made;
187 and

188 (2) The court may on its own motion, or shall if requested by a party to the proceeding,
189 make an inquiry not on the record with the children's division to determine if such a report has
190 been made.

191

192 If a report has been made, the court may stay the custody proceeding until the children's division
193 completes its investigation.

194 19. In any judicial proceeding involving the custody of a child where the court
195 determines that the child is in need of services under paragraph (d) of subdivision (1) of
196 subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or
197 custodian shall not be entered into the registry.

198 20. The children's division is hereby granted the authority to promulgate rules and
199 regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the
200 provisions of sections 210.109 to 210.183.

201 21. Any rule or portion of a rule, as that term is defined in section 536.010, that is
202 created under the authority delegated in this section shall become effective only if it complies
203 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
204 This section and chapter 536 are nonseverable and if any of the powers vested with the general
205 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
206 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
207 any rule proposed or adopted after August 28, 2000, shall be invalid and void.

 210.152. 1. **No later than January 1, 2014**, all identifying information, including
2 telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect
3 received by the division shall be **classified in one of the following tiers based on level of risk**
4 **of future injury to the child:**

5 **(1) Tier one: severe risk of future harm to the child. Such classification shall**
6 **include all cases in which the underlying child abuse or neglect results in adjudication**
7 **involving any of the offenses listed in subsection 3 of section 210.145 or an adjudication by**
8 **a juvenile court based on evidence that would constitute such an offense, or a finding that**
9 **reasonable efforts to prevent removal of the child and reunification of the family is not**
10 **required under subsection 7 of section 211.183. The department may promulgate rules to**
11 **establish standards for this classification;**

12 **(2) Tier two: moderate risk of future harm to the child. Such classification shall**
13 **be limited to cases in which children are removed due to abuse or neglect and the children**
14 **remain in foster care for more than ninety days. The department may promulgate rules**
15 **to establish the standards for this classification; or**

16 **(3) Tier three: mild risk of future harm to the child. Such classification shall**
17 **include all other cases, including but not limited to cases in which:**

18 **(a) No court action is filed against the offending party; or**

19 **(b) A court action is filed but does not result in an adjudication; or**

20 **(c) Within ninety days of removal, a child is reunified with the child's family or**
21 **caretaker who was found responsible for maltreatment.**

22 **2. The identifying information described in subsection 1 of this section shall be**
23 **retained by the division and removed from the records of the division as follows:**

24 (1) For investigation reports contained in the central registry[, identifying information
25 shall be retained by the division] :

26 **(a) All tier one reports shall be placed on the registry for life and shall not be**
27 **subject to expungement;**

28 **(b) All tier two reports shall be placed on the registry for five years, unless the**
29 **individual is found to have committed another act of child abuse or neglect in such five-**
30 **year period, in which case the individual shall be classified as a tier one report. Any tier**
31 **two report shall be eligible for expungement at the expiration of such five-year period; and**

32 **(c) All tier three reports shall be placed on the registry for two years and shall**
33 **automatically be expunged at the end of such two-year period; except that, a person shall**
34 **be placed back on the registry for any subsequent acts of abuse or neglect such person is**
35 **found to have committed;**

36 (2) (a) For investigation reports initiated against a person required to report pursuant to
37 section 210.115, where insufficient evidence of abuse or neglect is found by the division and
38 where the division determines the allegation of abuse or neglect was made maliciously, for
39 purposes of harassment or in retaliation for the filing of a report by a person required to report,
40 identifying information shall be expunged by the division within forty-five days from the
41 conclusion of the investigation;

42 (b) For investigation reports, where insufficient evidence of abuse or neglect is found
43 by the division and where the division determines the allegation of abuse or neglect was made
44 maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying
45 information shall be expunged by the division within forty-five days from the conclusion of the
46 investigation;

47 (c) For investigation reports initiated by a person required to report under section
48 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
49 information shall be retained for five years from the conclusion of the investigation. For all other
50 investigation reports where insufficient evidence of abuse or neglect is found by the division,
51 identifying information shall be retained for two years from the conclusion of the investigation.
52 Such reports shall include any exculpatory evidence known by the division, including
53 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
54 identifying information shall **automatically** be removed from the records of the division and
55 destroyed;

56 (3) For reports where the division uses the family assessment and services approach,
57 identifying information shall be retained by the division **in accordance with the provisions of**
58 **this subsection;**

59 (4) For reports in which the division is unable to locate the child alleged to have been
60 abused or neglected, identifying information shall be retained for ten years from the date of the
61 report and then shall be removed from the records of the division.

62 [2.] 3. Within ninety days after receipt of a report of abuse or neglect that is investigated,
63 the alleged perpetrator named in the report and the parents of the child named in the report, if the
64 alleged perpetrator is not a parent, shall be notified in writing of any determination made by the
65 division based on the investigation. The notice shall advise either:

66 (1) That the division has determined by a probable cause finding prior to August 28,
67 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists,
68 **the classification of the report under subsection 2 of section 210.145 or subsection 1 of this**
69 **section**, and that the division shall retain all identifying information regarding the abuse or
70 neglect **for the duration of time specified in subsection 1 of this section;** that such information
71 shall remain confidential and will not be released except to law enforcement agencies,
72 prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator
73 has sixty days from the date of receipt of the notice to seek reversal of the division's
74 determination through a review by the child abuse and neglect review board as provided in
75 subsection 4 of this section; or

76 (2) That the division has not made a probable cause finding or determined by a
77 preponderance of the evidence that abuse or neglect exists.

78 [3.] 4. The children's division may reopen a case for review at the request of the alleged
79 perpetrator, the alleged victim, or the office of the child advocate if new, specific, and credible
80 evidence is obtained that the division's decision was based on fraud or misrepresentation of
81 material facts relevant to the division's decision and there is credible evidence that absent such
82 fraud or misrepresentation the division's decision would have been different. If the alleged

83 victim is under the age of eighteen, the request for review may be made by the alleged victim's
84 parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall
85 be made within a reasonable time and not more than one year after the children's division made
86 its decision. The division shall not reopen a case for review based on any information which the
87 person requesting the review knew, should have known, or could by the exercise of reasonable
88 care have known before the date of the division's final decision in the case, unless the person
89 requesting the review shows by a preponderance of the evidence that he or she could not have
90 provided such information to the division before the date of the division's final decision in the
91 case. Any person, other than the office of the child advocate, who makes a request to reopen a
92 case for review based on facts which the person knows to be false or misleading or who acts in
93 bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity
94 from any liability, civil or criminal, for providing the information and requesting that the division
95 reopen the investigation. Any person who makes a request to reopen an investigation based on
96 facts which the person knows to be false shall be guilty of a class A misdemeanor. The
97 children's division shall not reopen an investigation under any circumstances while the case is
98 pending before a court of this state nor when a court has entered a final judgment after de novo
99 judicial review pursuant to this section.

100 [4.] 5. Any person named in an investigation as a perpetrator who is aggrieved by a
101 determination of abuse or neglect by the division as provided in this section may seek an
102 administrative review by the child abuse and neglect review board pursuant to the provisions of
103 section 210.153. Such request for review shall be made within sixty days of notification of the
104 division's decision under this section. In those cases where criminal charges arising out of facts
105 of the investigation are pending, the request for review shall be made within sixty days from the
106 court's final disposition or dismissal of the charges.

107 [5.] 6. In any such action for administrative review, the child abuse and neglect review
108 board shall sustain the division's determination if such determination was supported by evidence
109 of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence
110 after August 28, 2004, and is not against the weight of such evidence. The child abuse and
111 neglect review board hearing shall be closed to all persons except the parties, their attorneys and
112 those persons providing testimony on behalf of the parties.

113 [6.] 7. If the alleged perpetrator is aggrieved by the decision of the child abuse and
114 neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit
115 court in the county in which the alleged perpetrator resides and in circuits with split venue, in
116 the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator
117 is not a resident of the state, proper venue shall be in Cole County. The case may be assigned
118 to the family court division where such a division has been established. The request for a

119 judicial review shall be made within sixty days of notification of the decision of the child abuse
120 and neglect review board decision. In reviewing such decisions, the circuit court shall provide
121 the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator
122 may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
123 shall have the discretion to allow the parties to submit the case upon a stipulated record.

124 [7.] **8.** In any such action for administrative review, the child abuse and neglect review
125 board shall notify the child or the parent, guardian or legal representative of the child that a
126 review has been requested.

127 **9. (1) Individuals placed on the child abuse and neglect registry may petition the**
128 **child abuse and neglect review board for expungement of all identifying information from**
129 **the registry based on such individual's classification under subsection 1 of this section.**

130 **(2) A petition for expungement under this subsection shall state good cause for**
131 **removal, which shall include, but not be limited to:**

132 **(a) Proof of rehabilitation;**

133 **(b) Acceptance of personal responsibility for placement on the registry;**

134 **(c) A bona fide need for removal from the registry; and**

135 **(d) At least two letters supporting the petition from responsible persons of good**
136 **moral character.**

137 **(3) The child abuse and neglect review board shall grant a petition if the petitioner**
138 **has satisfied the criteria in subdivision (2) of this subsection and the board determines that**
139 **the petitioner poses no significant risk to children or other vulnerable populations.**

140 **(4) Any individual aggrieved by the decision of the child abuse and neglect review**
141 **board may seek de novo judicial review of such decision or refile such petition for**
142 **expungement with the board within two years after the final denial of such petition.**

143 **(5) When the board grants an expungement under this subsection, the department**
144 **shall maintain a sealed record of the underlying report and investigation of child abuse or**
145 **neglect. Such record shall be available only to child protection investigators or law**
146 **enforcement officials who need access to such record as part of an open investigation**
147 **related to an allegation of child abuse or neglect.**

210.153. 1. There is hereby created in the department of social services the "Child
2 Abuse and Neglect Review Board", which shall provide an independent review of child abuse
3 and neglect determinations in instances in which the alleged perpetrator is aggrieved by the
4 decision of the children's division **and determine all expungement petitions under subsection**
5 **9 of section 210.152.** The division may establish more than one board to assure timely review
6 of the determination **and expungement petitions.**

- 7 2. The board shall consist of nine members, who shall be appointed by the governor with
8 the advice and consent of the senate, and shall include:
- 9 (1) A physician, nurse or other medical professional;
10 (2) A licensed child or family psychologist, counselor or social worker;
11 (3) An attorney who has acted as a guardian ad litem or other attorney who has
12 represented a subject of a child abuse and neglect report;
13 (4) A representative from law enforcement or a juvenile office.
- 14 3. Other members of the board may be selected from:
- 15 (1) A person from another profession or field who has an interest in child abuse or
16 neglect;
17 (2) A college or university professor or elementary or secondary teacher;
18 (3) A child advocate;
19 (4) A parent, foster parent or grandparent.
- 20 4. The following persons may participate in a child abuse and neglect review board
21 review:
- 22 (1) Appropriate children's division staff and legal counsel for the department;
23 (2) The alleged perpetrator, who may be represented pro se or be represented by legal
24 counsel. The alleged perpetrator's presence is not required for the review to be conducted. The
25 alleged perpetrator may submit a written statement for the board's consideration in lieu of
26 personal appearance; and
27 (3) Witnesses providing information on behalf of the child, the alleged perpetrator or the
28 department. Witnesses shall only be allowed to attend that portion of the review in which they
29 are presenting information.
- 30 5. The members of the board shall serve without compensation, but shall receive
31 reimbursement for reasonable and necessary expenses actually incurred in the performance of
32 their duties.
- 33 6. All records and information compiled, obtained, prepared or maintained by the child
34 abuse and neglect review board in the course of any review shall be confidential information.
- 35 7. The department shall promulgate rules and regulations governing the operation of the
36 child abuse and neglect review board except as otherwise provided for in this section. These
37 rules and regulations shall, at a minimum, describe the length of terms, the selection of the
38 chairperson, confidentiality, notification of parties and time frames for the completion of the
39 review.
- 40 8. Findings of probable cause to suspect prior to August 28, 2004, or findings by a
41 preponderance of the evidence after August 28, 2004, of child abuse and neglect by the division
42 which are substantiated by court adjudication shall not be heard by the child abuse and neglect
43 review board.