

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 734

98TH GENERAL ASSEMBLY

1211H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 135.341, 210.001, 210.110, 455.230, and 492.304, RSMo, and to enact in lieu thereof seven new sections relating to child protection.

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

Section A. Sections 135.341, 210.001, 210.110, 455.230, and 492.304, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 37.719,
3 135.341, 210.001, 210.110, 210.142, 455.230, and 492.304, to read as follows:

37.719. 1. **The office shall have the authority to and may conduct an independent review of any entity within a county that has experienced three or more review requests in a calendar year including, but not limited to, children's division, the juvenile office, or guardian ad litem. The office shall establish and implement procedures for reviewing any such entity.**

2. **The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary in order to conduct such reviews.**

3. **The office may make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity. Upon completing a review under the provisions of this section, the office shall submit any findings and recommendations to the children's division and the office of state courts administrator.**

135.341. 1. As used in this section, the following terms shall mean:

2 (1) "CASA", an entity which receives funding from the court-appointed special advocate fund established under section 476.777, including an association based in this state, affiliated

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.

4 with a national association, organized to provide support to entities receiving funding from the
5 court-appointed special advocate fund;

6 (2) "Child advocacy centers", the regional child [assessment] **advocacy** centers listed in
7 subsection 2 of section 210.001;

8 (3) "Contribution", the amount of donation to a qualified agency;

9 (4) "Crisis care center", entities contracted with this state which provide temporary care
10 for children whose age ranges from birth through seventeen years of age whose parents or
11 guardian are experiencing an unexpected and unstable or serious condition that requires
12 immediate action resulting in short-term care, usually three to five continuous, uninterrupted
13 days, for children who may be at risk for child abuse, neglect, or in an emergency situation;

14 (5) "Department", the department of revenue;

15 (6) "Director", the director of the department of revenue;

16 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;

17 (8) "Tax liability", the tax due under chapter 143 other than taxes withheld under
18 sections 143.191 to 143.265.

19 2. For all tax years beginning on or after January 1, 2013, a tax credit may be claimed
20 in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall
21 be named the champion for children tax credit. The minimum amount of any tax credit issued
22 shall not be less than fifty dollars and shall be applied to taxes due under chapter 143, excluding
23 sections 143.191 to 143.265. A contribution verification shall be issued to the taxpayer by the
24 agency receiving the contribution. Such contribution verification shall include the taxpayer's
25 name, Social Security number, amount of tax credit, amount of contribution, the name and
26 address of the agency receiving the credit, and the date the contribution was made. The tax credit
27 provided under this subsection shall be initially filed for the year in which the verified
28 contribution is made.

29 3. The cumulative amount of the tax credits redeemed shall not exceed one million
30 dollars in any tax year. The amount available shall be equally divided among the three qualified
31 agencies: CASA, child advocacy centers, or crisis care centers, to be used towards tax credits
32 issued. In the event tax credits claimed under one agency do not total the allocated amount for
33 that agency, the unused portion for that agency will be made available to the remaining agencies
34 equally. In the event the total amount of tax credits claimed for any one agency exceeds the
35 amount available for that agency, the amount redeemed shall and will be apportioned equally to
36 all eligible taxpayers claiming the credit under that agency.

37 4. Prior to December thirty-first of each year, each qualified agency shall apply to the
38 department of social services in order to verify their qualified agency status. Upon a
39 determination that the agency is eligible to be a qualified agency, the department of social

40 services shall provide a letter of eligibility to such agency. No later than February first of each
41 year, the department of social services shall provide a list of qualified agencies to the department
42 of revenue. All tax credit applications to claim the champion for children tax credit shall be filed
43 between July first and April fifteenth of each fiscal year. A taxpayer shall apply for the
44 champion for children tax credit by attaching a copy of the contribution verification provided by
45 a qualified agency to such taxpayer's income tax return.

46 5. Any amount of tax credit which exceeds the tax due or which is applied for and
47 otherwise eligible for issuance but not issued shall not be refunded but may be carried over to
48 any subsequent taxable year, not to exceed a total of five years.

49 6. Tax credits may be assigned, transferred or sold.

50 7. (1) In the event a credit denial, due to lack of available funds, causes a balance-due
51 notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer
52 will not be held liable for any penalty or interest, provided the balance is paid, or approved
53 payment arrangements have been made, within sixty days from the notice of denial.

54 (2) In the event the balance is not paid within sixty days from the notice of denial, the
55 remaining balance shall be due and payable under the provisions of chapter 143.

56 8. The department may promulgate such rules or regulations as are necessary to
57 administer the provisions of this section. Any rule or portion of a rule, as that term is defined
58 in section 536.010, that is created under the authority delegated in this section shall become
59 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
60 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
61 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
62 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
63 rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid
64 and void.

65 9. Pursuant to section 23.253, of the Missouri sunset act:

66 (1) The program authorized under this section shall be reauthorized as of March 29,
67 2013, and shall expire on December 31, 2019, unless reauthorized by the general assembly; and

68 (2) This section shall terminate on September first of the calendar year immediately
69 following the calendar year in which the program authorized under this section is sunset; and

70 (3) The provisions of this subsection shall not be construed to limit or in any way impair
71 the department's ability to redeem tax credits authorized on or before the date the program
72 authorized under this section expires or a taxpayer's ability to redeem such credits.

73 10. Beginning on March 29, 2013, any verified contribution to a qualified agency made
74 on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

210.001. 1. The department of social services shall address the needs of homeless,
2 dependent and neglected children in the supervision and custody of the children's division and
3 to their families-in-conflict by:

4 (1) Serving children and families as a unit in the least restrictive setting available and
5 in close proximity to the family home, consistent with the best interests and special needs of the
6 child;

7 (2) Insuring that appropriate social services are provided to the family unit both prior to
8 the removal of the child from the home and after family reunification;

9 (3) Developing and implementing preventive and early intervention social services
10 which have demonstrated the ability to delay or reduce the need for out-of-home placements and
11 ameliorate problems before they become chronic.

12 2. The department of social services shall fund only regional child [assessment]
13 **advocacy** centers known as:

14 (1) The St. Louis City child [assessment] **advocacy** center;

15 (2) The St. Louis County child [assessment] **advocacy** center;

16 (3) The Jackson County child [assessment] **advocacy** center;

17 (4) The Buchanan County child [assessment] **advocacy** center;

18 (5) The Greene County child [assessment] **advocacy** center;

19 (6) The Boone County child [assessment] **advocacy** center;

20 (7) The Joplin child [assessment] **advocacy** center;

21 (8) The St. Charles County child [assessment] **advocacy** center;

22 (9) The Jefferson County child [assessment] **advocacy** center;

23 (10) The Pettis County child [assessment] **advocacy** center;

24 (11) The southeast Missouri child [assessment] advocacy center;

25 (12) The Camden County child [assessment] **advocacy** center;

26 (13) The Clay-Platte County child [assessment] **advocacy** center;

27 (14) The Lakes Area child [assessment] **advocacy** center;

28 (15) The Ozark Foothills child [assessment] **advocacy** center; and

29 (16) The North Central Missouri child [assessment] **advocacy** center;

30 provided the other approved [assessment] **advocacy** centers included in subdivisions (1) to (14)
31 of this subsection submit to the department of social services a modified funding formula for all
32 approved child [assessment] **advocacy** centers, which would require no additional state funding.

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:

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

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

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

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

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

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

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

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

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

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

63 **(12) "Multidisciplinary investigation team", a team used to investigate child abuse
64 and provide protective or preventive social services including the services of law
65 enforcement, children's division, the prosecuting attorney, the child advocacy center, the
66 juvenile officer, the medical provider, the mental health provider, and other agencies with
67 a common mission of achieving victim safety and perpetrator accountability and who have
68 entered into an agreement to maintain confidentiality as required by law, both public and
69 private;**

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

73 [(13)] (14) "Preponderance of the evidence", that degree of evidence that is of greater
74 weight or more convincing than the evidence which is offered in opposition to it or evidence
75 which as a whole shows the fact to be proved to be more probable than not;

76 [(14)] **(15)** "Probable cause", available facts when viewed in the light of surrounding
77 circumstances which would cause a reasonable person to believe a child was abused or
78 neglected;

79 [(15)] **(16)** "Report", the communication of an allegation of child abuse or neglect to the
80 division pursuant to section 210.115;

81 [(16)] **(17)** "Those responsible for the care, custody, and control of the child", those
82 included but not limited to the parents or guardian of a child, other members of the child's
83 household, or those exercising supervision over a child for any part of a twenty-four-hour day.
84 Those responsible for the care, custody and control shall also include any adult who, based on
85 relationship to the parents of the child, members of the child's household or the family, has
86 access to the child.

210.142. 1. Notwithstanding any rule or any other provision of law to the contrary,
2 **no health care provider, child advocacy center as defined in section 135.341, or**
3 **multidisciplinary investigation team as defined in section 210.110, shall provide copies to**
4 **any person or entity of visual or aural recordings or photographs of a minor or his or her**
5 **body who is alleged to be the victim of child abuse, which were created as part of an**
6 **investigation, unless ordered by a court of competent jurisdiction as provided in**
7 **subsections 2 and 3 of this section, except that members of the multidisciplinary**
8 **investigation team may share the visual or aural recordings of the child's statements or**
9 **photographs with other members of the multidisciplinary investigation team for the**
10 **purposes of investigation, related child protection court proceedings or prosecution, or the**
11 **office of the child advocate as a part of a review under section 37.710, or the child abuse**
12 **and neglect review board, as part of a review under section 210.153.**

13 **2. Notwithstanding any other provisions of law to the contrary, no court shall order**
14 **the copying of visual or aural recordings or photographs described in subsection 1 of this**
15 **section unless it does so after a motion by the party seeking a copy, notice to the parties,**
16 **and a hearing has been held, at which the child depicted or his or her representative, health**
17 **care provider, child advocacy center representative, or multidisciplinary investigation team**
18 **member may present and offer objections or suggestions for the court. If good cause has**
19 **been shown, and the court finds that section 573.038 does not apply, the court may order**
20 **the health care provider, child advocacy center, or multidisciplinary investigation team**
21 **member to copy visual or aural recordings or photographs described in subsection 1 of this**
22 **section to the moving party's counsel of record or specified experts who have been duly**
23 **qualified by the court in the evaluation or medical diagnosis of child abuse.**

24 **3. If a court orders the copying of visual or aural recordings or photographs as**
25 **described in subsection 1 of this section, the order shall:**

26 **(1) Be limited solely to the use of the recordings or photographs for the purposes of
27 a current court proceeding or in preparation for a pending court proceeding;**

28 **(2) Prohibit further copying, reproduction, or dissemination of the recordings or
29 photographs;**

30 **(3) Prohibit the moving party's counsel of record or specified experts from allowing
31 any other person copies of the recordings or photographs without a court order; and**

32 **(4) Require the return of the copies to the health care provider, child advocacy
33 center, or multidisciplinary investigation team member upon the end of the counsel or
34 expert's involvement in the relevant case or the final disposition of the case, unless the
35 copies have become part of the official court record, whichever comes first.**

36 **4. Nothing in this section shall prohibit the court or multidisciplinary members
37 from granting access to viewing, but not copying, the visual or aural recordings or
38 photographs as part of a pending related matter in front of the court involving an alleged
39 victim of child abuse or the child abuse and neglect review board, as part of a review under
40 section 210.153.**

41 **5. Notwithstanding any other provision of law to the contrary, the photographs,
42 audio recordings, reports, or any other records created or in the possession of a child
43 advocacy center as defined in section 135.341 or any member of a multidisciplinary
44 investigation team as defined in section 210.110, shall be subject to the provisions of
45 supreme court rule 25.03. The child advocacy center or multidisciplinary investigation
46 team shall disclose such materials to any prosecuting attorney who has filed a criminal
47 charge. Such prosecuting attorney may request that the trial court in which the criminal
48 case is pending grant a protective order regarding the material disclosed under this section,
49 if he or she feels such request is appropriate.**

455.230. 1. A shelter for victims of domestic violence that receives funds pursuant to
2 sections 455.200 to 455.230 shall file an annual report with the designated authority of the
3 county, or of the city not within a county, in which it is located, on or before the thirty-first day
4 of March of the year following the year in which funds were received. The annual report shall
5 include statistics on the number of persons served by the shelter, the relationship of the victim
6 of domestic violence to the abuser, the number of referrals made for medical, psychological,
7 financial, educational, vocational, child care services or legal services, and shall include the
8 results of an independent audit. No information contained in the report shall identify any person
9 served by the shelter or enable any person to determine the identity of any such person. Any
10 information contained in the report that is directly related to advocacy services provided by the
11 shelter shall not be construed as a violation of section 455.220. Any shelter for victims of
12 domestic violence as defined in this chapter may apply to the department of public safety for a

13 grant to provide funds for the renovation, construction and improvement of such shelter on a
14 75/25 state/local match rate, subject to appropriation.

15 2. The designated authority shall compile the reports filed pursuant to subsection 1 of
16 this section annually.

17 3. In addition to any shelter funded under said section, subject to appropriation, the
18 department of social services shall fund a child [assessment] **advocacy** center to serve the needs
19 of children from families in conflict and from domestic violence to be located in any county of
20 the first classification without a charter form of government with a population of more than one
21 hundred sixty thousand but less than two hundred thousand.

492.304. 1. In addition to the admissibility of a statement under the provisions of section
2 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under
3 the age of fourteen who is alleged to be a victim of an offense under the provisions of chapter
4 565, 566 or 568 is admissible into evidence if:

5 (1) No attorney for either party was present when the statement was made; except that,
6 for any statement taken at a state-funded child [assessment] **advocacy** center as provided for in
7 subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal
8 investigation may, as a member of a multidisciplinary investigation team, observe the taking of
9 such statement, but such attorney shall not be present in the room where the interview is being
10 conducted;

11 (2) The recording is both visual and aural and is recorded on film or videotape or by
12 other electronic means;

13 (3) The recording equipment was capable of making an accurate recording, the operator
14 of the equipment was competent, and the recording is accurate and has not been altered;

15 (4) The statement was not made in response to questioning calculated to lead the child
16 to make a particular statement or to act in a particular way;

17 (5) Every voice on the recording is identified;

18 (6) The person conducting the interview of the child in the recording is present at the
19 proceeding and available to testify or be cross-examined by either party; and

20 (7) The defendant or the attorney for the defendant is afforded an opportunity to view
21 the recording before it is offered into evidence.

22 2. If the child does not testify at the proceeding, the visual and aural recording of a verbal
23 or nonverbal statement of the child shall not be admissible under this section unless the recording
24 qualifies for admission under section 491.075.

25 3. If the visual and aural recording of a verbal or nonverbal statement of a child is
26 admissible under this section and the child testifies at the proceeding, it shall be admissible in

27 addition to the testimony of the child at the proceeding whether or not it repeats or duplicates the
28 child's testimony.

29 4. As used in this section, a nonverbal statement shall be defined as any demonstration
30 of the child by his or her actions, facial expressions, demonstrations with a doll or other visual
31 aid whether or not this demonstration is accompanied by words.

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