

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 160
99TH GENERAL ASSEMBLY

0346H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 21.771, 210.110, 210.152, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, and 211.447, RSMo, and to enact in lieu thereof twelve new sections relating to child protection, with an emergency clause for certain sections.

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

Section A. Sections 21.771, 210.110, 210.152, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, and 211.447, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 21.771, 210.110, 210.152, 210.564, 210.565, 211.059, 211.081, 211.211, 211.351, 211.361, 211.401, and 211.447, to read as follows:

21.771. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Child Abuse and Neglect" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

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.

13 (1) Make a continuing study and analysis of the state child abuse and neglect reporting
14 and investigation system;

15 (2) Devise a plan for improving the structured decision making regarding the removal
16 of a child from a home;

17 (3) Determine the additional personnel and resources necessary to adequately protect the
18 children of this state and improve their welfare and the welfare of families;

19 (4) Address the need for additional foster care homes and to improve the quality of care
20 provided to abused and neglected children in the custody of the state;

21 (5) Determine from its study and analysis the need for changes in statutory law;

22 (6) Make any other recommendation to the general assembly necessary to provide
23 adequate protections for the children of our state; and

24 (7) Make recommendations on how to improve abuse and neglect proceedings including
25 examining the role of the judge, children's division, the juvenile officer, the guardian ad litem,
26 and the foster parents.

27 3. The joint committee shall meet within thirty days after its creation and organize by
28 selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and
29 the other a member of the house of representatives. The chairperson shall alternate between
30 members of the house and senate every two years after the committee's organization.

31 4. The committee shall meet at least quarterly. The committee may meet at locations
32 other than Jefferson City when the committee deems it necessary.

33 5. The committee shall be staffed by legislative personnel as is deemed necessary to
34 assist the committee in the performance of its duties.

35 6. The members of the committee shall serve without compensation but shall be entitled
36 to reimbursement for actual and necessary expenses incurred in the performance of their official
37 duties.

38 7. It shall be the duty of the committee to compile a full report of its activities for
39 submission to the general assembly. The report shall be submitted not later than the fifteenth of
40 January of each year in which the general assembly convenes in regular session and shall include
41 any recommendations which the committee may have for legislative action as well as any
42 recommendations for administrative or procedural changes in the internal management or
43 organization of state or local government agencies and departments. Copies of the report
44 containing such recommendations shall be sent to the appropriate directors of state or local
45 government agencies or departments included in the report.

46 8. The provisions of this section shall expire on ~~January 15, 2018~~ **January 15, 2023**.

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. **Victims of abuse shall also include any victims of sex trafficking or**
7 **severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10);**

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

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

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

25

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

28 (3) "Central registry", a registry of persons where the division has found probable cause
29 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
30 or a court has substantiated through court adjudication that the individual has committed child
31 abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to
32 section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or 567.050 if the victim
33 is a child less than eighteen years of age, or any other crime pursuant to chapter 566 if the victim
34 is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older,
35 a crime under section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, 568.090, 573.023,
36 573.025, 573.035, 573.037, 573.040, 573.200, or 573.205, or an attempt to commit any such
37 crimes. Any persons placed on the registry prior to August 28, 2004, shall remain on the registry
38 for the duration of 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. **Victims of neglect shall also**
67 **include any victims of sex trafficking or severe forms of trafficking as those terms are**
68 **defined in 22 U.S.C. 78 Section 7102(9)-(10);**

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

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

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

77 (16) "Those responsible for the care, custody, and control of the child", ~~[those included~~
78 ~~but not limited to]~~ **includes, but is not limited to:**

79 (a) The parents or ~~[guardian]~~ **legal guardians** of a child~~[-]~~ ;

80 (b) Other members of the child's household~~[-or]~~ ;

81 (c) Those exercising supervision over a child for any part of a twenty-four-hour day~~[-~~
82 ~~Those responsible for the care, custody and control shall also include]~~ ;

83 (d) Any ~~[adult]~~ **person** who~~[-]~~ **has access to the child** based on relationship to the
84 parents of the child~~[-]~~ **or** members of the child's household or the family~~[-has access to the child]~~
85 **; or**

86 (e) **Any person who takes control of the child by deception, force, or coercion.**

210.152. 1. All identifying information, including telephone reports reported pursuant
2 to section 210.145, relating to reports of abuse or neglect received by the division shall be
3 retained by the division and removed from the records of the division as follows:

4 (1) For investigation reports contained in the central registry, identifying information
5 shall be retained by the division;

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

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

17 (c) For investigation reports initiated by a person required to report under section
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
19 information shall be retained for five years from the conclusion of the investigation. For all other
20 investigation reports where insufficient evidence of abuse or neglect is found by the division,
21 identifying information shall be retained for two years from the conclusion of the investigation.
22 Such reports shall include any exculpatory evidence known by the division, including
23 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
24 identifying information shall be removed from the records of the division and destroyed;

25 **(d) For investigation reports where the identification of the specific perpetrator or**
26 **perpetrators cannot be substantiated and the division has specific evidence to determine**
27 **that a child was abused or neglected, the division shall retain the report and all identifying**
28 **information but shall not place an unknown perpetrator on the central registry. The**
29 **division shall retain all identifying information for the purpose of utilizing such**
30 **information in subsequent investigations or family assessments of the same child, the**
31 **child's family, or members of the child's household. The division shall retain and disclose**
32 **information and findings in the same manner as the division retains and discloses family**
33 **assessments. If the division made a finding of abuse or neglect against an unknown**
34 **perpetrator prior to August 28, 2017, the division shall remove the unknown perpetrator**
35 **from the central registry but shall retain and utilize all identifying information as**
36 **otherwise provided in this section;**

37 (3) For reports where the division uses the family assessment and services approach,
38 identifying information shall be retained by the division;

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

42 2. Within ninety days, or within one hundred twenty days in cases involving sexual
43 abuse, or until the division's investigation is complete in cases involving a child fatality or near-
44 fatality, after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator
45 named in the report and the parents of the child named in the report, if the alleged perpetrator is
46 not a parent, shall be notified in writing of any determination made by the division based on the
47 investigation. The notice shall advise either:

48 (1) That the division has determined by a probable cause finding prior to August 28,
49 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists
50 and that the division shall retain all identifying information regarding the abuse or neglect; that
51 such information shall remain confidential and will not be released except to law enforcement
52 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
53 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's
54 determination through a review by the child abuse and neglect review board as provided in
55 subsection 4 of this section; ~~or~~

56 (2) That the division has not made a probable cause finding or determined by a
57 preponderance of the evidence that abuse or neglect exists; **or**

58 **(3) The division has been unable to determine the identity of the perpetrator of the**
59 **abuse or neglect. The notice shall also inform the child's parents and legal guardian that**

60 **the division shall retain, utilize, and disclose all information and findings as provided in**
61 **family assessment and services cases.**

62 3. The children's division may reopen a case for review [~~at the request of the alleged~~
63 ~~perpetrator, the alleged victim, or the office of the child advocate]~~ if new, specific, and credible
64 evidence is obtained [~~that the division's decision was based on fraud or misrepresentation of~~
65 ~~material facts relevant to the division's decision and there is credible evidence that absent such~~
66 ~~fraud or misrepresentation the division's decision would have been different. If the alleged~~
67 ~~victim is under the age of eighteen, the request for review may be made by the alleged victim's~~
68 ~~parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall~~
69 ~~be made within a reasonable time and not more than one year after the children's division made~~
70 ~~its decision. The division shall not reopen a case for review based on any information which the~~
71 ~~person requesting the review knew, should have known, or could by the exercise of reasonable~~
72 ~~care have known before the date of the division's final decision in the case, unless the person~~
73 ~~requesting the review shows by a preponderance of the evidence that he or she could not have~~
74 ~~provided such information to the division before the date of the division's final decision in the~~
75 ~~case. Any person, other than the office of the child advocate, who makes a request to reopen a~~
76 ~~case for review based on facts which the person knows to be false or misleading or who acts in~~
77 ~~bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity~~
78 ~~from any liability, civil or criminal, for providing the information and requesting that the division~~
79 ~~reopen the investigation. Any person who makes a request to reopen an investigation based on~~
80 ~~facts which the person knows to be false shall be guilty of a class A misdemeanor. The~~
81 ~~children's division shall not reopen an investigation under any circumstances while the case is~~
82 ~~pending before a court of this state nor when a court has entered a final judgment after de novo~~
83 ~~judicial review pursuant to this section].~~

84 4. Any person named in an investigation as a perpetrator who is aggrieved by a
85 determination of abuse or neglect by the division as provided in this section may seek an
86 administrative review by the child abuse and neglect review board pursuant to the provisions of
87 section 210.153. Such request for review shall be made within sixty days of notification of the
88 division's decision under this section. In those cases where criminal charges arising out of facts
89 of the investigation are pending, the request for review shall be made within sixty days from the
90 court's final disposition or dismissal of the charges.

91 5. In any such action for administrative review, the child abuse and neglect review board
92 shall sustain the division's determination if such determination was supported by evidence of
93 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after
94 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect

95 review board hearing shall be closed to all persons except the parties, their attorneys and those
96 persons providing testimony on behalf of the parties.

97 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect
98 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the
99 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in
100 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a
101 resident of the state, proper venue shall be in Cole County. The case may be assigned to the
102 family court division where such a division has been established. The request for a judicial
103 review shall be made within sixty days of notification of the decision of the child abuse and
104 neglect review board decision. In reviewing such decisions, the circuit court shall provide the
105 alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may
106 subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
107 shall have the discretion to allow the parties to submit the case upon a stipulated record.

108 7. In any such action for administrative review, the child abuse and neglect review board
109 shall notify the child or the parent, guardian or legal representative of the child that a review has
110 been requested.

**210.564. 1. This section shall be known and may be cited as the "Foster Care Bill
2 of Rights".**

3 **2. The children's division shall provide every school-aged foster child and his or her**
4 **foster parent with an age-appropriate orientation and explanation of the foster care bill**
5 **of rights. Any children's division office, residential care facility, child placing agency, or**
6 **other agency involved in the care and placement of foster children shall post the foster care**
7 **bill of rights in the office, facility, or agency. The children's division shall also make the**
8 **foster care bill of rights readily available and easily accessible online.**

9 **3. The foster care bill of rights shall be as follows:**

10 **(1) In all circumstances, the best interests of the child shall be the first priority of**
11 **the children's division;**

12 **(2) Recognizing the importance of familial stability in foster care and adoption**
13 **placement, it shall be the practice of the children's division, when appropriate, to support**
14 **a child's return to the custody and care of the parents or guardians with whom the child**
15 **resided immediately prior to state custody;**

16 **(3) When restoration of care and custody is not appropriate or possible, the**
17 **children's division shall attempt to place the child with suitable relatives in accordance**
18 **with section 210.565;**

19 **(4) The children's division shall further support familial stability by ensuring**
20 **continuity of foster placement, except in instances where cause for a change in a child's**
21 **placement is reasonably found;**

22 **(5) The children's division shall work with each child in state custody to develop**
23 **both a permanency plan and a case plan. These plans shall be developed within twelve**
24 **months of a child's entrance into state custody. The permanency plan shall include the**
25 **child's immediate and long-term placement goals, while the case plan shall address a**
26 **child's specific medical and emotional needs;**

27 **(6) Recognizing the value of familial relationships in foster care and adoption**
28 **settings, it shall be the practice of the children's division to place siblings in the same foster**
29 **care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to**
30 **the safety or well-being of any of the siblings. If siblings are not placed together, it shall**
31 **be the practice of the children's division to support regular visitation and communication**
32 **between siblings in state custody, and between children in state custody and their parents**
33 **and relatives, where not otherwise prohibited or against a child's best interests; and**

34 **(7) The children's division shall support all children twelve years of age or older**
35 **in state custody to attend any hearings pertaining to the child's placement, custody, or care,**
36 **provided that the child is willing and able to attend such hearings, and that attending such**
37 **hearings is in the best interests of the child.**

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

11 2. As used in this section, the term "relative" means a grandparent or any other person
12 related to another by blood or affinity [~~within the third degree~~] **or a person who is not so**
13 **related to the child but has a close relationship with the child or the child's family.** The
14 status of a grandparent shall not be affected by the death or the dissolution of the marriage of a
15 son or daughter.

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

- 18 (1) Grandparents [~~and~~] ;
19 (2) Relatives **related by blood or affinity within the third degree;**
20 [~~(2) A trusted adult that has a preexisting relationship with the child, such as a godparent,~~
21 ~~teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and]~~
22 (3) **Other relatives; and**
23 (4) Any foster parent who is currently licensed and capable of accepting placement of
24 the child.

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

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

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

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

43 8. A grandparent or other relative may, on a case-by-case basis, have standards for
44 licensure not related to safety waived for specific children in care that would otherwise impede
45 licensing of the grandparent's or relative's home. In addition, any person receiving a preference
46 may be licensed in an expedited manner if a child is placed under such person's care.

47 9. The guardian ad litem shall ascertain the child's wishes and feelings about his or her
48 placement by conducting an interview or interviews with the child, if appropriate based on the
49 child's age and maturity level, which shall be considered as a factor in placement decisions and
50 recommendations, but shall not supersede the preference for relative placement created by this
51 section or be contrary to the child's best interests.

211.059. 1. When a child is taken into custody by a juvenile officer or law enforcement
2 official, with or without a warrant for an offense in violation of the juvenile code or the general

3 law which would place the child under the jurisdiction of the juvenile court pursuant to
4 subdivision (2) or (3) of subsection 1 of section 211.031, the child shall be advised, **orally and**
5 **in writing**, prior to questioning:

6 (1) That ~~he~~ **the child** has the right to remain silent; ~~and~~

7 (2) That any statement ~~he~~ **the child** does make to anyone can be and may be used
8 against ~~him~~ **the child in subsequent juvenile court proceedings**; ~~and~~

9 (3) That ~~he~~ **the child** has a right to have a parent, guardian or custodian present during
10 questioning; ~~and~~

11 (4) That ~~he~~ **the child** has a right to consult with an attorney and that one will be
12 appointed and paid for him if he cannot afford one;

13 **(5) That the child has the right to stop talking at any time; and**

14 **(6) That any statement the child does make to law enforcement can be and may be**
15 **used against the child if the child is transferred to a court of general jurisdiction to be**
16 **prosecuted under the general law.**

17 2. ~~[If the child indicates in any manner and at any stage of questioning pursuant to this~~
18 ~~section that he does not wish to be questioned further, the officer shall cease questioning.]~~ **The**
19 **juvenile officer shall halt or discontinue any questioning by law enforcement upon notice**
20 **from the child that the child wishes to stop being questioned.**

21 3. **The juvenile officer shall ensure a child is advised of the limited role of the**
22 **juvenile officer during questioning by law enforcement and specifically advise the child**
23 **that the juvenile officer is not legal counsel for the child or an advocate for the child during**
24 **questioning by law enforcement.**

25 4. **The juvenile officer shall not participate in the questioning by law enforcement**
26 **by asking any questions or soliciting any information from the child regarding the alleged**
27 **offense or offenses.**

28 5. When a child is taken into custody by a juvenile officer or law enforcement official
29 which places the child under the jurisdiction of the juvenile court under subdivision (1) of
30 subsection 1 of section 211.031, including any interactions with the child by the children's
31 division, the following shall apply:

32 (1) If the child indicates in any manner at any stage during questioning involving the
33 alleged abuse and neglect that the child does not wish to be questioned any further on the
34 allegations, or that the child wishes to have his or her parent, legal guardian, or custodian if such
35 parent, guardian, or custodian is not the alleged perpetrator, or his or her attorney present during
36 questioning as to the alleged abuse, the questioning of the child shall cease on the alleged abuse
37 and neglect until such a time that the child does not object to talking about the alleged abuse and
38 neglect unless the interviewer has reason to believe that the parent, legal guardian, or custodian

39 is acting to protect the alleged perpetrator. Nothing in this subdivision shall be construed to
40 prevent the asking of any questions necessary for the care, treatment, or placement of a child; and

41 (2) Notwithstanding any prohibition of hearsay evidence, all video or audio recordings
42 of any meetings, interviews, or interrogations of a child shall be presumed admissible as
43 evidence in any court or administrative proceeding involving the child if the following conditions
44 are met:

45 (a) Such meetings, interviews, or interrogations of the child are conducted by the state
46 prior to or after the child is taken into the custody of the state; and

47 (b) Such video or audio recordings were made prior to the adjudication hearing in the
48 case. Nothing in this paragraph shall be construed to prohibit the videotaping or audiotaping of
49 any such meetings, interviews, or interrogations of a child after the adjudication hearing; and

50 (3) Only upon a showing by clear and convincing evidence that such a video or audio
51 recording lacks sufficient indicia of reliability shall such recording be inadmissible.

52

53 The provisions of this subsection shall not apply to statements admissible under section 491.075
54 or 492.304 in criminal proceedings.

211.081. 1. Whenever any person informs the ~~[court in person and]~~ **juvenile officer** in
2 writing that a child appears to be within the purview of applicable provisions of section 211.031
3 or that a person seventeen years of age appears to be within the purview of the provisions of
4 subdivision (1) of subsection 1 of section 211.031, the ~~[court]~~ **juvenile officer** shall make or
5 cause to be made a preliminary inquiry to determine the facts and to determine whether or not
6 the interests of the public or of the child or person seventeen years of age require that further
7 action be taken. On the basis of this inquiry, the juvenile ~~[court]~~ **officer** may make such informal
8 adjustment as is practicable without a petition or ~~[may authorize the filing of a petition by the~~
9 ~~juvenile officer]~~ **file a petition**. Any other provision of this chapter to the contrary
10 notwithstanding, the juvenile court shall not make any order for disposition of a child or person
11 seventeen years of age which would place or commit the child or person seventeen years of age
12 to any location outside the state of Missouri without first receiving the approval of the children's
13 division.

14 2. Placement in any institutional setting shall represent the least restrictive appropriate
15 placement for the child or person seventeen years of age and shall be recommended based upon
16 a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of
17 a child or person seventeen years of age which would order residential treatment or other services
18 inside the state of Missouri, the juvenile court shall enter findings which include the
19 recommendation of the psychological or psychiatric evaluation or both; and certification from
20 the division director or designee as to whether a provider or funds or both are available,

21 including a projection of their future availability. If the children's division indicates that funding
22 is not available, the division shall recommend and make available for placement by the court an
23 alternative placement for the child or person seventeen years of age. The division shall have the
24 burden of demonstrating that they have exercised due diligence in utilizing all available services
25 to carry out the recommendation of the evaluation team and serve the best interest of the child
26 or person seventeen years of age. The judge shall not order placement or an alternative
27 placement with a specific provider but may reasonably designate the scope and type of the
28 services which shall be provided by the department to the child or person seventeen years of age.

29 3. Obligations of the state incurred under the provisions of section 211.181 shall not
30 exceed, in any fiscal year, the amount appropriated for this purpose.

211.211. 1. A ~~party~~ **child** is entitled to be represented by counsel in all proceedings
2 **under subdivision (2) or (3) of subsection 1 of section 211.031 and by a guardian ad litem**
3 **in all proceedings under subdivision (1) of subsection 1 of section 211.031.**

4 2. The court shall appoint counsel for a child prior to the filing of a petition if a request
5 is made therefor to the court and the court finds that the child is the subject of a juvenile court
6 proceeding and that the child making the request is indigent.

7 3. When a petition has been filed **under subdivision (2) or (3) of subsection 1 of**
8 **section 211.031**, the court shall appoint counsel for the child ~~[when necessary to assure a full and~~
9 ~~fair hearing]~~ **except if private counsel has entered his or her appearance on behalf of the**
10 **child or if counsel has been waived in accordance with law.**

11 4. When a petition has been filed and the child's custodian appears before the court
12 without counsel, the court shall appoint counsel for the custodian if it finds:

- 13 (1) That the custodian is indigent; and
14 (2) That the custodian desires the appointment of counsel; and
15 (3) That a full and fair hearing requires appointment of counsel for the custodian.

16 5. Counsel shall be allowed a reasonable time in which to prepare to represent his client.

17 6. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved
18 by the court for good cause shown. If no appeal is taken, services of counsel are terminated
19 following the entry of an order of disposition.

20 7. The child and his custodian may be represented by the same counsel except where a
21 conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that
22 the child and his custodian be represented by separate counsel, and it shall appoint counsel if
23 required by subsection 3 or 4 of this section.

24 8. When a petition has been filed, a child may waive his right to counsel only with the
25 approval of the court.

26 9. Waiver of counsel by a child may be withdrawn at any stage of the proceeding, in
27 which event the court shall appoint counsel for the child if required by subsection 3 of this
28 section.

211.351. 1. The ~~juvenile~~ court **or the family court administrator in circuits where**
2 **a family court administrator has been appointed to act as the appointing authority under**
3 **section 487.060** shall appoint a juvenile officer and other necessary juvenile court personnel to
4 serve under the direction of the court in each county of the first and second class and the circuit
5 judge in circuits comprised of third and fourth class counties:

6 (1) May appoint a juvenile officer and other necessary personnel to serve the judicial
7 circuit; or

8 (2) Circuit judges of any two or more adjoining circuits may by agreement, confirmed
9 by judicial order, appoint a juvenile officer and other necessary personnel to serve their
10 respective judicial circuits and, in such a case, the juvenile officers and other persons appointed
11 shall serve under the joint direction of the judges so agreeing.

12 2. **The presiding judge of the circuit shall ensure that any case in the family court**
13 **or juvenile court division in which a juvenile officer is a participant is not heard by a judge**
14 **who is the appointing authority for the juvenile officer or other necessary juvenile**
15 **employees.**

16 3. In the event a juvenile officer and other juvenile court personnel are appointed to serve
17 as provided in subdivisions (1) and (2) of subsection 1 of this section, the total cost to the
18 counties for the compensation of these persons shall be prorated among the several counties and
19 upon a ratio to be determined by a comparison of the respective populations of the counties.

20 ~~[3-]~~ 4. In each judicial circuit, a grievance review committee shall be appointed by the
21 circuit court en banc to serve as final administrative authority of a grievance regarding personnel
22 policy or action that negatively affects an employee of the family court and/or juvenile court who
23 is not governed by the Missouri circuit court personnel system. The grievance review committee
24 may be comprised of either the circuit court en banc, a committee of not less than three circuit
25 or associate circuit judges, or other body established by local court rule.

211.361. 1. Whenever the need arises for the appointment of a juvenile officer, the
2 ~~juvenile~~ court **or the family court administrator in circuits where a family court**
3 **administrator has been appointed to act as the appointing authority under section 487.060**
4 shall either:

5 (1) Provide, by rule of court, for open competitive written and oral examinations and
6 create an eligible list of persons who possess the qualifications prescribed by subdivision (2) and
7 who have successfully passed such examination; or

8 (2) Appoint any person over the age of twenty-one years who has completed
9 satisfactorily four years of college education with a major in sociology or related subjects or who,
10 in lieu of such academic training, has had four years or more experience in social work with
11 juveniles in probation or allied services.

12 2. This section does not terminate the existing appointment nor present term of office
13 of any juvenile officer or deputy juvenile officer in any county, but it applies to any appointment
14 to be made after the existing appointment or term of office of any incumbent terminates or
15 expires for any reason whatsoever.

211.401. 1. The juvenile officer shall~~[-under direction of the juvenile court]:~~

2 (1) Make such investigations and furnish the court with such information and assistance
3 as the judge may ~~[require]~~ **order**;

4 (2) Keep a written record of such investigations and ~~[submit reports thereon to the judge]~~
5 **offer such reports into evidence in accordance with law**;

6 (3) Take charge of children before and after the hearing as may be ~~[directed]~~ **ordered**
7 by the court;

8 (4) Perform such other duties and exercise such powers as the judge of the juvenile court
9 may ~~[direct]~~ **order**.

10 2. The juvenile officer is vested with all the power and authority of sheriffs to make
11 arrests and perform other duties incident to his office.

12 3. The juvenile officers or other persons acting as such in the several counties of the state
13 shall cooperate with each other in carrying out the purposes and provisions of this chapter.

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

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

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

18 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
19 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
20 of filing of the petition. The court may find that an infant has been abandoned if:

21 (a) The parent has left the child under circumstances that the identity of the child was
22 unknown and could not be ascertained, despite diligent searching, and the parent has not come
23 forward to claim the child; or

24 (b) The parent has, without good cause, left the child without any provision for parental
25 support and without making arrangements to visit or communicate with the child, although able
26 to do so; or

27 (c) The parent has voluntarily relinquished a child under section 210.950; or

28 (3) A court of competent jurisdiction has determined that the parent has:

29 (a) Committed murder of another child of the parent; or

30 (b) Committed voluntary manslaughter of another child of the parent; or

31 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
32 voluntary manslaughter; or

33 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
34 another child of the parent.

35 3. A termination of parental rights petition shall be filed by the juvenile officer or the
36 division, or if such a petition has been filed by another party, the juvenile officer or the division
37 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
38 required in subsection 2 of this section, except as provided in subsection 4 of this section.
39 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate
40 a petition for termination of parental rights which is filed outside of sixty days.

41 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
42 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
43 the parental rights of the child's parent or parents if:

44 (1) The child is being cared for by a relative; or

45 (2) There exists a compelling reason for determining that filing such a petition would
46 not be in the best interest of the child, as documented in the permanency plan which shall be
47 made available for court review; or

48 (3) The family of the child has not been provided such services as provided for in section
49 211.183.

50 5. The juvenile officer or the division may file a petition to terminate the parental rights
51 of the child's parent when it appears that one or more of the following grounds for termination
52 exist:

53 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
54 child over one year of age at the time of filing of the petition. The court shall find that the child
55 has been abandoned if, for a period of six months or longer:

56 (a) The parent has left the child under such circumstances that the identity of the child
57 was unknown and could not be ascertained, despite diligent searching, and the parent has not
58 come forward to claim the child; or

59 (b) The parent has, without good cause, left the child without any provision for parental
60 support and without making arrangements to visit or communicate with the child, although able
61 to do so;

62 (2) The child has been abused or neglected. In determining whether to terminate parental
63 rights pursuant to this subdivision, the court shall consider and make findings on the following
64 conditions or acts of the parent:

65 (a) A mental condition which is shown by competent evidence either to be permanent
66 or such that there is no reasonable likelihood that the condition can be reversed and which
67 renders the parent unable to knowingly provide the child the necessary care, custody and control;

68 (b) Chemical dependency which prevents the parent from consistently providing the
69 necessary care, custody and control of the child and which cannot be treated so as to enable the
70 parent to consistently provide such care, custody and control;

71 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
72 or any child in the family by the parent, including an act of incest, or by another under
73 circumstances that indicate that the parent knew or should have known that such acts were being
74 committed toward the child or any child in the family; or

75 (d) Repeated or continuous failure by the parent, although physically or financially able,
76 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
77 care and control necessary for the child's physical, mental, or emotional health and development.

78

79 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability
80 or disease;

81 (3) The child has been under the jurisdiction of the juvenile court for a period of one
82 year, and the court finds that the conditions which led to the assumption of jurisdiction still
83 persist, or conditions of a potentially harmful nature continue to exist, that there is little
84 likelihood that those conditions will be remedied at an early date so that the child can be returned
85 to the parent in the near future, or the continuation of the parent-child relationship greatly

86 diminishes the child's prospects for early integration into a stable and permanent home. In
87 determining whether to terminate parental rights under this subdivision, the court shall consider
88 and make findings on the following:

89 (a) The terms of a social service plan entered into by the parent and the division and the
90 extent to which the parties have made progress in complying with those terms;

91 (b) The success or failure of the efforts of the juvenile officer, the division or other
92 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
93 provide a proper home for the child;

94 (c) A mental condition which is shown by competent evidence either to be permanent
95 or such that there is no reasonable likelihood that the condition can be reversed and which
96 renders the parent unable to knowingly provide the child the necessary care, custody and control;

97 (d) Chemical dependency which prevents the parent from consistently providing the
98 necessary care, custody and control over the child and which cannot be treated so as to enable
99 the parent to consistently provide such care, custody and control; or

100 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566
101 when the child or any child in the family was a victim, or a violation of section 568.020 when
102 the child or any child in the family was a victim. As used in this subdivision, a "child" means
103 any person who was under eighteen years of age at the time of the crime and who resided with
104 such parent or was related within the third degree of consanguinity or affinity to such parent; or

105 (5) The child was conceived and born as a result of an act of forcible rape or rape in the
106 first degree. When the biological father has pled guilty to, or is convicted of, the forcible rape
107 or rape in the first degree of the birth mother, such a plea or conviction shall be conclusive
108 evidence supporting the termination of the biological father's parental rights; or

109 (6) (a) The parent is unfit to be a party to the parent and child relationship because of
110 a consistent pattern of committing a specific abuse including, but not limited to, specific
111 conditions directly relating to the parent and child relationship which are determined by the court
112 to be of a duration or nature that renders the parent unable for the reasonably foreseeable future
113 to care appropriately for the ongoing physical, mental, or emotional needs of the child.

114 (b) It is presumed that a parent is unfit to be a party to the parent and child relationship
115 upon a showing that:

116 a. Within a three-year period immediately prior to the termination adjudication, the
117 parent's parental rights to one or more other children were involuntarily terminated pursuant to
118 subsection 2 or 4 of this section or subdivision (1), (2), (3), or (4) of this subsection or similar
119 laws of other states;

120 b. If the parent is the birth mother and within eight hours after the child's birth, the child's
121 birth mother tested positive and over .08 blood alcohol content pursuant to testing under section

122 577.020 for alcohol, or tested positive for cocaine, heroin, methamphetamine, a controlled
123 substance as defined in section 195.010, or a prescription drug as defined in section 196.973,
124 excepting those controlled substances or prescription drugs present in the mother's body as a
125 result of medical treatment administered to the mother, and the birth mother is the biological
126 mother of at least one other child who was adjudicated an abused or neglected minor by the
127 mother or the mother has previously failed to complete recommended treatment services by the
128 children's division through a family-centered services case;

129 c. If the parent is the birth mother and at the time of the child's birth or within eight hours
130 after a child's birth the child tested positive for alcohol, cocaine, heroin, methamphetamine, a
131 controlled substance as defined in section 195.010, or a prescription drug as defined in section
132 196.973, excepting those controlled substances or prescription drugs present in the mother's body
133 as a result of medical treatment administered to the mother, and the birth mother is the biological
134 mother of at least one other child who was adjudicated an abused or neglected minor by the
135 mother or the mother has previously failed to complete recommended treatment services by the
136 children's division through a family-centered services case; or

137 d. Within a three-year period immediately prior to the termination adjudication, the
138 parent has pled guilty to or has been convicted of a felony involving the possession, distribution,
139 or manufacture of cocaine, heroin, or methamphetamine, and the parent is the biological parent
140 of at least one other child who was adjudicated an abused or neglected minor by such parent or
141 such parent has previously failed to complete recommended treatment services by the children's
142 division through a family-centered services case.

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

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

152 (1) The emotional ties to the birth parent;

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

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

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

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

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

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

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

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

172 10. The disability or disease of a parent shall not constitute a basis for a determination
173 that a child is a child in need of care, for the removal of custody of a child from the parent, or for
174 the termination of parental rights without a specific showing that there is a causal relation
175 between the disability or disease and harm to the child.

Section B. Because immediate action is necessary to prevent any loss of federal funding
2 for child welfare services in Missouri, the repeal and reenactment of sections 210.110 and
3 210.152 of section A of this act is deemed necessary for the immediate preservation of the public
4 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and the repeal and reenactment of sections 210.110 and 210.152 of
6 section A of this act shall be in full force and effect upon its passage and approval.

✓