

# *Missouri Revised Statutes*

## **Chapter 210 Child Protection and Reformation**

August 28, 2007

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### **Department of social services to meet needs of homeless, dependent and neglected children--only certain regional child assessment centers funded.**

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

- (1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;
- (2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;
- (3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

- (1) The St. Louis City child assessment center;
- (2) The St. Louis County child assessment center;
- (3) The Jackson County child assessment center;
- (4) The Buchanan County child assessment center;
- (5) The Greene County child assessment center;
- (6) The Boone County child assessment center;
- (7) The Joplin child assessment center;
- (8) The St. Charles County child assessment center;
- (9) The Jefferson County child assessment center;
- (10) The Pettis County child assessment center;
- (11) The southeast Missouri child assessment center;
- (12) The Camden County child assessment center;

(13) The Clay-Platte County child assessment center;

(14) The Lakes Area child assessment center;

(15) The Ozark Foothills child assessment center; and

(16) The North Central Missouri child assessment center; provided the other approved assessment centers included in subdivisions (1) to (14) of this subsection submit to the department of social services a modified funding formula for all approved child assessment centers, which would require no additional state funding.

(L. 1987 S.B. 244 § 1, A.L. 1999 S.B. 387, et al., A.L. 2000 H.B. 1677 merged with S.B. 757 & 602, A.L. 2001 S.B. 48, A.L. 2002 S.B. 923, et al., A.L. 2003 H.B. 575)

### **Year 2000 plan, agencies to develop, purpose.**

210.002. 1. The department of social services, the department of health and senior services, the department of mental health, the department of elementary and secondary education, the division of youth services, and the division of family services shall cooperate with the children's service commission to prepare a detailed, comprehensive "Year 2000 Plan" to provide the preventive services described in subsection 2 of this section.

2. The "Year 2000 Plan" shall provide recommendations for the development and implementation of coordinated social and health services which:

(1) Identify early problems experienced by children and their families and the services which are adequate in availability, appropriate to the situation, and effective;

(2) Seek to bring about meaningful change before family situations become irreversibly destructive and before disturbed psychological behavioral patterns and health problems become severe or permanent;

(3) Serve children and families in their own homes thus preventing unnecessary out-of-home placement or institutionalization;

(4) Focus resources on social and health problems as they begin to manifest themselves rather than waiting for chronic and severe patterns of illness, criminality, and dependency to develop which require long-term treatment, maintenance, or custody;

(5) Reduce duplication of and gaps in service delivery;

(6) Improve planning, budgeting, and communication among these state agencies serving children and families; and

(7) Develop outcome standards for measuring the effectiveness of social and health services for children and families.

3. Each such department or division shall cooperate with the commission to develop a specific plan which shall be made available to the governor and the members of the general assembly by December 1, 1988.

(L. 1987 S.B. 244 § 2)

### **Immunizations of children required, when, exceptions--duties of administrator, report.**

210.003. 1. No child shall be permitted to enroll in or attend any public, private or parochial day care center,

preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

(L. 1988 S.B. 797 § 1)

Effective 9-1-88

CROSS REFERENCES:

Consent to immunization may be delegated to other persons, when, RSMo 431.058

Mandatory insurance coverage of immunizations, exceptions, RSMo 376.1215

## **Law enforcement agencies, record of custody of child.**

210.004. All law enforcement agencies shall maintain a confidential record of the date and time a child less than seventeen years of age is taken into custody for any reason and the date and time such child is released from

custody.

(L. 1995 H.B. 174, et al. § 2)

### **Criminal background checks, persons receiving state or federal funds for child care, procedure--rulemaking authority.**

210.025. 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of seventeen who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the family support division shall:

(1) Determine if a finding of child abuse or neglect by probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, involving the applicant or any person over the age of seventeen who is living in the applicant's home has been recorded pursuant to section 210.145 or 210.221;

(2) Determine if the applicant or any person over the age of seventeen who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) Upon initial application, require the applicant to submit to fingerprinting and request a criminal background check of the applicant and any person over the age of seventeen who is living in the applicant's home pursuant to section 43.540, RSMo, and section 210.487, and inquire of the applicant whether any children less than seventeen years of age residing in the applicant's home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant, any person over the age of seventeen who is living in the applicant's home, and any child less than seventeen years of age who is living in the applicant's home and who the division has determined has been certified as an adult for the commission of a crime:

(1) Has had a finding of child abuse or neglect by probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, pursuant to section 210.145 or section 210.152;

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110\*, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances

regarding the findings, refusals or violations against such applicant or any person over the age of seventeen or less than seventeen who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080, RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of seventeen who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1999 H.B. 490 & H.B. 308 § 1, A.L. 2004 H.B. 1453 merged with S.B. 762)

\*Section 320.110 was repealed by S.B. 76 in 1985.

### **Direct payment recipients, child care providers--department's duties.**

210.027. For child-care providers who receive state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, the department of social services shall:

- (1) Be authorized to revoke the registration of a registered provider for due cause;
- (2) Require providers to be at least eighteen years of age;
- (3) Where there are no local ordinances or regulations regarding smoke detectors, require providers, by rule, to install and maintain an adequate number of smoke detectors in the residence where child care is provided;
- (4) Require providers to be tested for tuberculosis;
- (5) Require providers to notify parents if the provider does not have immediate access to a telephone;
- (6) Make providers aware of local opportunities for training in first aid and child care.

(L. 1999 H.B. 490 & H.B. 308 § 2)

### **Blood tests of pregnant women.**

210.030. 1. Every licensed physician, midwife, registered nurse and all persons who may undertake, in a professional way, the obstetrical and gynecological care of a pregnant woman in the state of Missouri shall, if the woman consents, take or cause to be taken a sample of venous blood of such woman at the time of the first

prenatal examination, or not later than twenty days after the first prenatal examination, and subject such sample to an approved and standard serological test for syphilis, an approved serological test for hepatitis B and such other treatable diseases and metabolic disorders as are prescribed by the department of health and senior services. In any area of the state designated as a syphilis outbreak area by the department of health and senior services, if the mother consents, a sample of her venous blood shall be taken later in the course of pregnancy and at delivery for additional testing for syphilis as may be prescribed by the department. If a mother tests positive for hepatitis B, the physician or person who professionally undertakes the pediatric care of a newborn shall also administer the appropriate doses of hepatitis B vaccine and hepatitis B immune globulin (HBIG) in accordance with the current recommendations of the Advisory Committee on Immunization Practices (ACIP). If the mother's hepatitis B status is unknown, the appropriate dose of hepatitis B vaccine shall be administered to the newborn in accordance with the current ACIP recommendations. If the mother consents, a sample of her venous blood shall be taken. If she tests positive for hepatitis B, hepatitis B immune globulin (HBIG) shall be administered to the newborn in accordance with the current ACIP recommendations.

2. The department of health and senior services shall, in consultation with the Missouri genetic disease advisory committee, make such rules pertaining to such tests as shall be dictated by accepted medical practice, and tests shall be of the types approved by the department of health and senior services. An approved and standard test for syphilis, hepatitis B, and other treatable diseases and metabolic disorders shall mean a test made in a laboratory approved by the department of health and senior services. No individual shall be denied testing by the department of health and senior services because of inability to pay.

(L. 1941 p. 367 § 1, A.L. 1986 H.B. 1196, A.L. 1993 H.B. 522, A.L. 1998 H.B. 1419, A.L. 2000 H.B. 1568)

### **Blood test results--confidential.**

210.040. As soon as the result of the test is determined, and if the test is positive or doubtfully positive for syphilis or hepatitis B, the physician, or such other obstetrical or gynecological attendant shall fill out a form to be furnished by the department of health and senior services of Missouri, with such finding noted thereon, and send it to the county or municipal department of health of the county or city in which the pregnant woman or the mother is then residing. In no event shall this finding be made public by any person.

(L. 1941 p. 367 § 2, A.L. 1993 H.B. 522)

### **Reporting required.**

210.050. In reporting every birth, and stillbirth, physicians and other persons attending pregnancy cases and required to report births and stillbirths, shall state on the report of birth, or stillbirth, whether a blood test for syphilis has been made during such pregnancy upon a specimen of venous blood taken from the woman who bore the child, and, if made, the date when and where such test was made, and if not made, the reason why such test was not made. Physicians and other persons shall also report whether a blood test for hepatitis B was performed in accordance with section 210.030. No report of birth, or stillbirth, shall contain the result of such blood test.

(L. 1941 p. 367 § 3, A.L. 1993 H.B. 522)

### **Noncompliance a misdemeanor--penalty.**

210.060. Any licensed physician, midwife, registered nurse and all persons who may undertake, in a professional way, the obstetrical and gynecological care of pregnant women in the state of Missouri, who shall publish in any manner not required by law the result of said blood tests, or who, if a blood test is made, fails to follow the

provisions of sections 210.030 to 210.060 or who misrepresents the facts required to be reported in said sections, shall, on conviction, be adjudged guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding one year, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

(L. 1941 p. 367 § 4, A.L. 1993 H.B. 522)

### **Prophylactic eyedrops at birth--report.**

210.070. Every physician, midwife or nurse who shall be in attendance upon a newborn infant or its mother, shall drop into the eyes of such infant immediately after delivery, a prophylactic solution approved by the state department of health and senior services, and shall within forty-eight hours thereafter, report in writing to the board of health or county physician of the city, town or county where such birth occurs, his or her compliance with this section, stating the solution used by him or her.

(RSMo 1939 § 9994)

Prior revisions: 1929 § 9124; 1919 § 7340; 1909 § 8321

### **Report of infant eye inflammation, by whom.**

210.080. Should one or both eyes of an infant become inflamed, swollen or red, and show an unnatural discharge at any time within two weeks after its birth, it shall be the duty of the parents or other persons having charge of such infant, to immediately report in writing to the board of health or county physician of the city, town or county in which such birth occurs, the fact that such inflammation, swelling and redness of the eyes and unnatural discharge exists. On receipt of such report, the board of health or county physician shall take such immediate action as it may deem necessary in order that blindness may be prevented.

(RSMo 1939 § 9995)

Prior revision: 1929 § 9125

### **Health officer to furnish copy of law to midwife--secretary of state to print same.**

210.090. Every health officer shall furnish a copy of sections 210.070 to 210.100, to each and every person who is known to him to act as midwife or nurse in the city or town for which such health officer is appointed, and the secretary of state shall cause a sufficient number of copies of said sections to be printed, and shall supply the same to such health officers on application.

(RSMo 1939 § 9996)

Prior revisions: 1929 § 9126; 1919 § 7341; 1909 § 8322

### **Violation a misdemeanor.**

210.100. Any person violating any of the provisions of sections 210.070 to 210.090 shall be deemed guilty of a misdemeanor.

(RSMo 1939 § 9997, A. 1949 S.B. 1065 § 210.10) Prior revisions: 1929 § 9127; 1919 § 7342; 1909 § 8323

## **Children's services commission established, members, qualifications --meetings open to public, notice--rules--staff--ex officio members.**

210.101. 1. There is hereby established the "Missouri Children's Services Commission", which shall be composed of the following members:

- (1) The director or deputy director of the department of labor and industrial relations and the director or deputy director of each state agency, department, division, or other entity which provides services or programs for children, including, but not limited to, the department of mental health, the department of elementary and secondary education, the department of social services, the department of public safety and the department of health and senior services;
  - (2) One judge of a juvenile court, who shall be appointed by the chief justice of the supreme court;
  - (3) One judge of a family court, who shall be appointed by the chief justice of the supreme court;
  - (4) Four members, two from each political party, of the house of representatives, who shall be appointed by the speaker of the house of representatives;
  - (5) Four members, two from each political party, of the senate, who shall be appointed by the president pro tempore of the senate. All members shall serve for as long as they hold the position which made them eligible for appointment to the Missouri children's services commission under this subsection. All members shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.
2. All meetings of the Missouri children's services commission shall be open to the public and shall, for all purposes, be deemed open public meetings under the provisions of sections 610.010 to 610.030, RSMo. The Missouri children's services commission shall meet no less than once every two months, and shall hold its first meeting no later than sixty days after September 28, 1983. Notice of all meetings of the commission shall be given to the general assembly in the same manner required for notifying the general public of meetings of the general assembly.
3. The Missouri children's services commission may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers.
4. The commission shall elect from amongst its members a chairman, vice chairman, a secretary-reporter, and such other officers as it deems necessary.
5. The services of the personnel of any agency from which the director or deputy director is a member of the commission shall be made available to the commission at the discretion of such director or deputy director. All meetings of the commission shall be held in the state of Missouri.
6. The officers of the commission may hire an executive director. Funding for the executive director may be provided from the Missouri children's services commission fund or other sources provided by law.
7. The commission, by majority vote, may invite individuals representing local and federal agencies or private organizations and the general public to serve as ex officio members of the commission. Such individuals shall not have a vote in commission business and shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

## **Service commission's powers and duties--coordinating board for early childhood established, members, powers.**

210.102. 1. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of children's programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for children's services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

2. There is hereby established within the children's services commission the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders.

The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

3. The coordinating board for early childhood shall have the power to:

- (1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system;
- (2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;
- (3) Identify legislative recommendations to improve services for children from birth through age five;
- (4) Promote coordination of existing services and programs across public and private entities;
- (5) Promote research-based approaches to services and ongoing program evaluation;
- (6) Identify service gaps and advise public and private entities on methods to close such gaps;
- (7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 2 and 3 of this section, and take any and all actions necessary to avail itself of such aid and cooperation;
- (8) Direct disbursements from the coordinating board for early childhood fund as provided in this section;
- (9) Administer the coordinating board for early childhood fund and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board;
- (10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;
- (11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;
- (12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;
- (13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;
- (14) Adopt and use an official seal;
- (15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;
- (16) Make all expenditures which are incident and necessary to carry out its purposes;
- (17) Sue and be sued in its official name;
- (18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out

the duties and purposes set forth in this section.

4. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

- (1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 2 and 3 of this section;
- (2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;
- (3) Any moneys received as fees authorized under subsections 2 and 3 of this section;
- (4) Any moneys received as interest on deposits or as income on approved investments of the fund;
- (5) Any moneys obtained from any other available source.

Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(L. 1983 S.B. 256 § 2, A.L. 1989 H.B. 22 & 390, A.L. 2004 H.B. 1453)

### **Children's services commission fund created, purpose--investment--not subject to general revenue transfer.**

210.103. 1. There is established in the state treasury a special fund, to be known as the "Missouri Children's Services Commission Fund". The state treasurer shall credit to and deposit in the Missouri children's services commission fund all amounts which may be received from general revenue, grants, gifts, bequests, the federal government, or other sources granted or given for the purposes of sections 210.101 and 210.102.

2. The state treasurer shall invest moneys in the Missouri children's services commission fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the Missouri children's services commission fund shall be credited to the Missouri children's services commission fund.

3. The administration of the Missouri children's services commission fund, including, but not limited to, the disbursement of funds therefrom, shall be as prescribed by the Missouri children's services commission in its bylaws.

4. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the ordinary revenue of this state at the end of each biennium, shall not apply to the Missouri children's services commission fund.

5. Amounts received in the fund shall only be used by the commission for purposes authorized under sections 210.101 and 210.102.

(L. 1984 H.B. 1427 § 1, A.L. 1989 H.B. 22 & 390)

### **Failure to use passenger restraint system not to be basis for civil actions--evidence inadmissible.**

210.106. In no event shall failure to employ a child passenger restraint system required by section 307.179, RSMo, provide the basis for a claim of civil liability or negligence or contributory negligence of any person in any action for damages by reason of injury sustained by a child; nor shall such failure to employ such child passenger restraint system be admissible as evidence in the trial of any civil action.

(L. 1983 H.B. 29 § 2, A.L. 1993 S.B. 394, A.L. 2006 S.B. 872, et al.)

## **Dominic James Memorial Foster Care Reform Act, statutes involved.**

210.108. Sections 37.700 to 37.730, 168.133, 191.748, 207.085, 210.109, 210.110, 210.111, 210.112, 210.113, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 211.031, 211.032, 211.059, 211.319, and 537.046, RSMo, shall be known and may be cited as the "Dominic James Memorial Foster Care Reform Act of 2004".

(L. 2004 H.B. 1453 § 37.699)

## **Child protection system established by children's division, duties, records, investigations or assessments and services--central registry maintained.**

210.109. 1. The children's division shall establish a child protection system for the entire state.

2. The child protection system shall promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments and providing services in response to reports of child abuse or neglect. The system shall coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

3. In addition to any duties specified in section 210.145, in implementing the child protection system, the division shall:

(1) Maintain a central registry;

(2) Receive reports and establish and maintain an information system operating at all times, capable of receiving and maintaining reports;

(3) Attempt to obtain the name and address of any person making a report in all cases, after obtaining relevant information regarding the alleged abuse or neglect, although reports may be made anonymously; except that, reports by mandatory reporters under section 210.115, including employees of the children's division, juvenile officers, and school personnel shall not be made anonymously, provided that the reporter shall be informed, at the time of the report, that the reporter's name and any other personally identifiable information shall be held as confidential and shall not be made public as provided under this section and section 211.319, RSMo;

(4) Upon receipt of a report, check with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, of any siblings, and the perpetrator, and relevant dispositional information regarding such previous reports;

(5) Provide protective or preventive services to the family and child and to others in the home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and stabilize the family whenever possible. The juvenile court shall cooperate with the division in providing such services;

(6) Collaborate with the community to identify comprehensive local services and assure access to those services for children and families where there is risk of abuse or neglect;

(7) Maintain a record which contains the facts ascertained which support the determination as well as the facts that do not support the determination;

(8) Whenever available and appropriate, contract for the provision of children's services through children's services providers and agencies in the community; except that the state shall be the sole provider of child abuse and neglect hotline services, the initial child abuse and neglect investigation, and the initial family assessment. The division shall attempt to seek input from child welfare service providers in completing the initial family assessment. In all legal proceedings involving children in the custody of the division, the division shall be represented in court by either division personnel or persons with whom the division contracts with for such legal representation. All children's services providers and agencies shall be subject to criminal background checks pursuant to chapter 43, RSMo, and shall submit names of all employees to the family care safety registry.

As used in this subsection, "report" includes any telephone call made pursuant to section 210.145.

(L. 1994 S.B. 595, A.L. 1995 H.B. 232 & 485 merged with S.B. 174, A.L. 1997 H.B. 343 merged with S.B. 358, A.L. 1998 H.B. 1556 merged with S.B. 961, A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1453)

CROSS REFERENCE:

Application of law to adoption petitions filed on or after August 28, 1997, RSMo 453.012

(2005) Failure by state social workers to comply with mandatory state-created procedures in section does not constitute a procedural or substantive due process violation protected under the Fourteenth Amendment. Forrester v. Bass, 397 F.3d 1047 (8th Cir.).

## **Definitions.**

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

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

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

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

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

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

(3) "Central registry", a registry of persons where the division has found probable cause to believe prior to August

28, 2004, or by a preponderance of the evidence after August 28, 2004, or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime pursuant to chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes. Any persons placed on the registry prior to August 28, 2004, shall remain on the registry for the duration of time required by section 210.152;

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

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

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

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

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

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

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

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

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

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

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

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

(16) "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child

for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child.

(L. 1975 H.B. 578 § 1, A.L. 1982 H.B. 1171, et al., A.L. 1985 H.B. 366, et al., A.L. 1994 S.B. 595, A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1453, A.L. 2005 H.B. 568)

(2007) Provisions of this section requiring inclusion in the central registry before a finding of abuse or neglect by a preponderance of the evidence by the child Abuse and Neglect Review Board violate due process, and are invalid. *Jamison v. State*, 218 S.W.3d 399 (Mo.banc).

## **Identification of children receiving foster care, report to general assembly, contents.**

210.111. By January 1, 2005, the children's division shall identify all children in the custody of the division currently receiving foster care services and shall report to the general assembly the type of foster care being provided, including but not limited to care provided in a licensed foster care home, institutional setting, residential setting, independent living setting, or kinship care setting, and the status of all such children. Nothing in this section shall be construed as requiring the division to disclose the identity or precise location of any child in the custody of the division.

(L. 2004 H.B. 1453)

## **Children's services providers and agencies, contracting with, requirements--reports to general assembly--rulemaking authority.**

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

- (1) The safety and welfare of children is paramount;
- (2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;
- (3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and
- (4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

- (1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

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

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

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

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

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

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

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

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

(e) For any child under ten years old, treatment services may be available as defined in section 210.110. Assessments, as defined in section 210.110, may occur to determine which treatment services best meet the child's psychological and social needs. When the assessment indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment services, the division will locate, contract, and place the child with the appropriate organizations. This placement will be viewed as the least restrictive for the child based on the assessment;

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

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

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

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

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

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

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

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

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

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

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

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

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

8. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the

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

(L. 2004 H.B. 1453, A.L. 2005 H.B. 568)

### **Accreditation goal, when to be achieved.**

210.113. It is the intent and goal of the general assembly to have the department attain accreditation by the Council for Accreditation for Families and Children's Services within five years of August 28, 2004.

(L. 2004 H.B. 1453)

### **Qualified immunity for private contractor, when--exceptions.**

210.114. 1. Except as otherwise provided in section 207.085, RSMo, a private contractor, as defined in subdivision (4) of section 210.110, with the children's division that receives state moneys from the division or the department for providing services to children and their families shall have qualified immunity from civil liability for providing such services when the child is not in the physical care of such private contractor to the same extent that the children's division has qualified immunity from civil liability when the division or department directly provides such services.

2. This section shall not apply if a private contractor described above knowingly violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to child abuse and neglect, or any state law directly related to the child abuse and neglect activities of the division or any local ordinance relating to the safety condition of the property.

(L. 2005 H.B. 568 merged with S.B. 420 & 344 § 210.116)

### **Reports of abuse, neglect, and under age eighteen deaths--persons required to report--deaths required to be reported to the division or child fatality review panel, when--report made to another state, when.**

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, RSMo, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452, RSMo, and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

(L. 1975 H.B. 578 § 2, A.L. 1980 S.B. 574, A.L. 1982 H.B. 1171, et al., A.L. 1991 H.B. 185, A.L. 1993 S.B. 253 merged with S.B. 394, A.L. 1994 S.B. 595, A.L. 1998 H.B. 1556, A.L. 2000 S.B. 757 & 602, A.L. 2002 S.B. 923, et al., A.L. 2003 H.B. 445)

CROSS REFERENCE:

Child abuse, ministers duty to report, RSMo 352.400

(1986) It has been held that a violation of this section does not give rise to a private cause of action. Doe "A" v. Special School District of St. Louis County, 637 F.Supp. 1138 (E.D. Mo.). (2004) Section criminalizing failure to report child abuse is not unconstitutional under void for vagueness doctrine. State v. Brown, 140 S.W.3d 51 (Mo.banc).

**Child not reunited with parents or placed in a home, when.**

210.117. 1. A child taken into the custody of the state shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(2) A violation of section 568.020, RSMo;

(3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

(4) A violation of section 568.065, RSMo;

(5) A violation of section 568.080, RSMo;

(6) A violation of section 568.090, RSMo; or

(7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. In any case where the children's division determines based on a substantiated report of child abuse that a child has abused another child, the abusing child shall be prohibited from returning to or residing in any residence, facility, or school within one thousand feet of the residence of the abused child or any child care facility or school that the abused child attends, unless and until a court of competent jurisdiction determines that the alleged abuse did not occur or the abused child reaches the age of eighteen, whichever earlier occurs. The provisions of this subsection shall not apply when the abusing child and the abused child are siblings or children living in the same home.

(L. 2004 H.B. 1453, A.L. 2005 H.B. 568 and S.B. 155 and S.B. 420 & 344, A.L. 2005 1st Ex. Sess. H.B. 2)

Effective 9-15-05

## **Medical institution staff members, duties of.**

210.120. Whenever a person is required to report under sections 210.110 to 210.165 in his official capacity as a staff member of a medical institution, whether public or private, he shall immediately notify the physician in charge or his designee who shall then take or cause to be taken color photographs of physical trauma and shall, if medically indicated, cause to be performed radiologic examination of the child who is the subject of a report, costs of which shall be paid by the division. Reproductions of such color photographs and/or radiologic reports shall be sent to the division as soon as possible.

(L. 1975 H.B. 578 § 3)

Effective 6-6-75

## **Voluntary placement agreements, children in state custody solely in need of mental health treatment--rulemaking authority.**

210.122. 1. As used in this section, "voluntary placement agreement" means a written agreement between the department of social services and a parent, legal guardian, or custodian of a child seventeen years of age or younger solely in need of mental health treatment. A voluntary placement agreement developed under a department of mental health assessment and certification of appropriateness authorizes the department of social services to administer the placement and care of a child while the parent, legal guardian, or custodian of the child retains legal custody.

2. The department of social services may enter into a cooperative interagency agreement with the department of mental health authorizing the department of mental health to administer the placement and care of a child under a voluntary placement agreement. The department of mental health is defined as a child-placing agency under section 210.481 solely for children placed under a voluntary placement agreement.

3. Any function delegated from the department of social services to the department of mental health regarding the placement and care of children shall be administered and supervised by the department of social services to ensure compliance with federal and state law.

4. The departments of social services and mental health may promulgate rules under this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

(L. 2004 H.B. 1453 § 210.108)

### **Protective custody of child, who may take, reports required--temporary protective custody defined.**

210.125. 1. A police officer, law enforcement official, or a physician who has reasonable cause to suspect that a child is suffering from illness or injury or is in danger of personal harm by reason of his surroundings and that a case of child abuse or neglect exists, may request that the juvenile officer take the child into protective custody under chapter 211, RSMo.

2. A police officer, law enforcement official, or a physician who has reasonable cause to believe that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe the harm or threat to life may occur before a juvenile court could issue a temporary protective custody order or before a juvenile officer could take the child into protective custody, the police officer, law enforcement official or physician may take or retain temporary protective custody of the child without the consent of the child's parents, guardian or others legally responsible for his care.

3. Any person taking a child in protective custody under this section shall immediately notify the juvenile officer of the court of the county in which the child is located of his actions and notify the division and make a reasonable attempt to advise the parents, guardians or others legally responsible for the child's care. The jurisdiction of the juvenile court attaches from the time the juvenile is taken into protective custody. Such person shall file, as soon as practicable but no later than twelve hours, a written statement with the juvenile officer which sets forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into protective custody, the juvenile officer shall either return the child to his parents, guardian, or others responsible for his care or shall initiate child protective proceedings under chapter 211, RSMo. In no event shall an employee of the division, acting upon his own, remove a child under the provisions of this act\*.

4. Temporary protective custody for purposes of this section shall not exceed twenty-four hours. Temporary protective custody for a period beyond twenty-four hours may be authorized only by an order of the juvenile court.

5. For the purposes of this section, "temporary protective custody" shall mean temporary placement within a hospital or medical facility or emergency foster care facility or such other suitable custody placement as the court may direct; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility.

(L. 1975 H.B. 578 § 4, A.L. 1982 H.B. 1171, et al.)

\*"This act" (H.B. 1171, et al., 1982) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

### **Diligent search for biological parents required, when.**

210.127. 1. If the location or identity of the biological parent or parents of a child in the custody of the division is unknown, the children's division shall utilize all reasonable and effective means available to conduct a diligent search for the biological parent or parents of such child.

2. For purposes of this section, "diligent search" means the efforts of the division, or an entity under contract with the division, to locate a biological parent whose identity or location is unknown, initiated as soon as the division is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(L. 2004 H.B. 1453)

### **Oral reports, when and where made--contents of reports.**

210.130. 1. Oral reports of abuse or neglect shall be made to the division by telephone or otherwise.

2. Such reports shall include the following information: The names and addresses of the child and his parents or other persons responsible for his care, if known; the child's age, sex, and race; the nature and extent of the child's injuries, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect to the child or his siblings; the name, age and address of the person responsible for the injuries, abuse or neglect, if known; family composition; the source of the report; the name and address of the person making the report, his occupation, and where he can be reached; the actions taken by the reporting source, including the taking of color photographs or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs or making of radiologic examinations, removal or keeping of the child, notifying the coroner or medical examiner, and other information that the person making the report believes may be helpful in the furtherance of the purposes of sections 210.110 to 210.165.

3. Evidence of sexual abuse or sexual molestation of any child under eighteen years of age shall be turned over to the division within twenty-four hours by those mandated to report.

(L. 1975 H.B. 578 § 5, A.L. 1980 S.B. 574, A.L. 1982 H.B. 1171, et al.)

### **Immunity from liability granted to reporting person or institution, when--exception.**

210.135. Any person, official, or institution complying with the provisions of sections 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of radiologic examinations pursuant to sections

210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, or the removal or retaining a child pursuant to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement agency, juvenile office, court, or child-protective service agency of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person, official or institution intentionally filing a false report, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

(L. 1975 H.B. 578 § 6, A.L. 1980 S.B. 574, A.L. 1982 H.B. 1171, et al., A.L. 1993 H.B. 170, A.L. 1998 H.B. 1556)

### **Privileged communication not recognized, exception.**

210.140. Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

(L. 1975 H.B. 578 § 7, A.L. 1980 S.B. 574, A.L. 2001 S.B. 267)

(1984) "Situations" as used in this section restricting the invocation of certain privileged communications in child abuse proceedings includes both civil and criminal proceedings. State ex rel. D.M. v. Hoester (Mo. banc), 681 S.W.2d 449.

### **Telephone hotline for reports on child abuse--division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception--chief investigator named--family support team meetings, who may attend--reporter's right to receive information--admissibility of reports in custody cases.**

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

- (1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;
- (2) Promoting the preservation and reunification of children and families consistent with state and federal law;
- (3) Providing due process for those accused of child abuse or neglect; and
- (4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024,

or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

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

5. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. If the abuse is alleged to have occurred in a school or child-care facility the division shall not meet with the child in any school building or child-care facility building where abuse of such child is alleged to have occurred. When the child is reported absent from the residence, the location and the well-being of the child shall be verified. For purposes of this subsection, child-care facility shall have the same meaning as such term is defined in section 210.201.

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

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

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

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

10. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

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

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

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

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

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

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

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

14. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If a child involved in a pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed. If the investigation is not completed within thirty days, the

information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

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

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

- (1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; and
- (2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.

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

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

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

(L. 1975 H.B. 578 § 8, A.L. 1980 S.B. 574, A.L. 1982 H.B. 1171, et al., A.L. 1986 S.B. 470, A.L. 1990 H.B. 1370, et al., A.L. 1993 S.B. 52, A.L. 1994 S.B. 595, A.L. 2000 S.B. 757 & 602, A.L. 2002 S.B. 923, et al., A.L. 2003 H.B. 613, A.L. 2004 H.B. 1453 merged with S.B. 945 and S.B. 803 & 1257 merged with S.B. 968 and S.B. 969, A.L. 2007 S.B. 25)

(2005) Failure by state social workers to comply with mandatory state-created procedures in section does not constitute a procedural or substantive due process violation protected under the Fourteenth Amendment. *Forrester v. Bass*, 397 F.3d 1047 (8th Cir.).

## **Confidentiality of family support team meetings, exceptions--form developed for core commitments made at meetings.**

210.147. 1. Except as otherwise provided by law, all information provided at any family support team meeting

held in relation to the removal of a child from the child's home is confidential; except that:

- (1) Any parent or party may waive confidentiality for himself or herself to the extent permitted by law; and
- (2) Any parent of the child shall have an absolute right to video and/or audio tape such team meetings to the extent permitted by law; and
- (3) No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such team meetings. Any person, other than a parent or party, who does not agree to maintain confidentiality of the information provided at such team meetings may be excluded from all or any portion of such team meetings during which such person is not testifying or providing information.

2. The division shall be responsible for developing a form to be signed at the conclusion of any team meeting held in relation to a child removed from the home and placed in the custody of the state that reflects the core commitments made by the children's division or the convenor of the team meeting and the parents of the child or any other party. The content of the form shall be consistent with service agreements or case plans required by statute, but not the specific address of the child; whether the child shall remain in current placement or be moved to a new placement; visitation schedule for the child's family; and any additional core commitments. Any dissenting views shall be recorded and attested to on such form. The parents and any other party shall be provided with a copy of the signed document.

(L. 2004 H.B. 1453)

### **Confidentiality of reports and records, exceptions--violations, penalty.**

210.150. 1. The children's division shall ensure the confidentiality of all reports and records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local offices, the central registry, and other appropriate persons, officials, and institutions pursuant to sections 210.109 to 210.183. To protect the rights of the family and the child named in the report as a victim, the children's division shall establish guidelines which will ensure that any disclosure of information concerning the abuse and neglect involving that child is made only to persons or agencies that have a right to such information. The division may require persons to make written requests for access to records maintained by the division. The division shall only release information to persons who have a right to such information. The division shall notify persons receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the purpose for which the information is released and of the penalties for unauthorized dissemination of information. Such information shall be used only for the purpose for which the information is released.

2. Only the following persons shall have access to investigation records contained in the central registry:

- (1) Appropriate federal, state or local criminal justice agency personnel, or any agent of such entity, with a need for such information under the law to protect children from abuse or neglect;
- (2) A physician or a designated agent who reasonably believes that the child being examined may be abused or neglected;
- (3) Appropriate staff of the division and of its local offices, including interdisciplinary teams which are formed to assist the division in investigation, evaluation and treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services for a child referred to the provider;
- (4) Any child named in the report as a victim, or a legal representative, or the parent, if not the alleged perpetrator, or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in

danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide a method for confirming or certifying that a designee is acting on behalf of a subject;

(5) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or neglect or child protective proceedings or child custody proceedings, and other federal, state and local government entities, or any agent of such entity, with a need for such information in order to carry out its responsibilities under the law to protect children from abuse or neglect;

(7) Any person engaged in a bona fide research purpose, with the permission of the director; provided, however, that no information identifying the child named in the report as a victim or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the child named in the report as a victim or, if the child is less than eighteen years of age, through the child's parent, or guardian provides written permission;

(8) Any child-care facility; child-placing agency; residential-care facility, including group homes; juvenile courts; public or private elementary schools; public or private secondary schools; or any other public or private agency exercising temporary supervision over a child or providing or having care or custody of a child who may request an examination of the central registry from the division for all employees and volunteers or prospective employees and volunteers, who do or will provide services or care to children. Any agency or business recognized by the division or business which provides training and places or recommends people for employment or for volunteers in positions where they will provide services or care to children may request the division to provide an examination of the central registry. Such agency or business shall provide verification of its status as a recognized agency. Requests for examinations shall be made to the division director or the director's designee in writing by the chief administrative officer of the above homes, centers, public and private elementary schools, public and private secondary schools, agencies, or courts. The division shall respond in writing to that officer. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect;

(9) Any parent or legal guardian who inquires about a child abuse or neglect report involving a specific person or child-care facility who does or may provide services or care to a child of the person requesting the information. Request for examinations shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect. The response shall be given within ten working days of the time it was received by the division;

(10) Any person who inquires about a child abuse or neglect report involving a specific child-care facility, child-placing agency, residential-care facility, public and private elementary schools, public and private secondary schools, juvenile court or other state agency. The information available to these persons is limited to the nature and disposition of any report contained in the central registry and shall not include any identifying information

pertaining to any person mentioned in the report;

(11) Any state agency acting pursuant to statutes regarding a license of any person, institution, or agency which provides care for or services to children;

(12) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(13) Any person who is a tenure-track or full-time research faculty member at an accredited institution of higher education engaged in scholarly research, with the permission of the director. Prior to the release of any identifying information, the director shall require the researcher to present a plan for maintaining the confidentiality of the identifying information. The researcher shall be prohibited from releasing the identifying information of individual cases.

3. Only the following persons shall have access to records maintained by the division pursuant to section 210.152 for which the division has received a report of child abuse and neglect and which the division has determined that there is insufficient evidence or in which the division proceeded with the family assessment and services approach:

(1) Appropriate staff of the division;

(2) Any child named in the report as a victim, or a legal representative, or the parent or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent. The names or other identifying information of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide for a method for confirming or certifying that a designee is acting on behalf of a subject;

(3) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(4) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(5) Appropriate criminal justice agency personnel or juvenile officer;

(6) Multidisciplinary agency or individual including a physician or physician's designee who is providing services to the child or family, with the consent of the parent or guardian of the child or legal representative of the child;

(7) Any person engaged in bona fide research purpose, with the permission of the director; provided, however, that no information identifying the subjects of the reports or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the subject, or if a child, through the child's parent or guardian, provides written permission.

4. Any person who knowingly violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the information system or the central registry and in reports and records made pursuant to sections 210.109 to 210.183, shall be guilty of a class A misdemeanor.

5. Nothing in this section shall preclude the release of findings or information about cases which resulted in a

child fatality or near fatality. Such release is at the sole discretion of the director of the department of social services, based upon a review of the potential harm to other children within the immediate family.

(L. 1975 H.B. 578 § 9, A.L. 1980 S.B. 574, A.L. 1982 H.B. 1171, et al., A.L. 1985 S.B. 401, A.L. 1986 H.B. 953, A.L. 1988 S.B. 719, A.L. 1991 H.B. 185, A.L. 1994 S.B. 595, A.L. 1997 S.B. 358, A.L. 1999 S.B. 387, et al., A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1453)

**Reports of abuse or neglect--division to retain certain information--confidential, released only to authorized persons--report removal, when--notice of agency's determination to retain or remove, sent when--administrative review of determination--de novo judicial review.**

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

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

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

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

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

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

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

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

(1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be

released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 3 of this section; or

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

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

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

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

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

(L. 1982 H.B. 1171, et al., A.L. 1986 S.B. 470, A.L. 1990 H.B. 1370, et al., A.L. 1991 H.B. 185, A.L. 1994 S.B. 595, A.L. 2000 S.B. 757 & 602, A.L. 2004 H.B. 1453, A.L. 2005 S.B. 155)

\*Words "section 210.015" appear in original rolls, a typographical error.

(2007) Provisions of this section requiring inclusion in the central registry before a finding of abuse or neglect by a preponderance of the evidence by the child Abuse and Neglect Review Board violate due process, and are invalid. *Jamison v. State*, 218 S.W.3d 399 (Mo.banc).

## **Child abuse and neglect review board, established, members, duties, records, rules.**

210.153. 1. There is hereby created in the department of social services the "Child Abuse and Neglect Review Board", which shall provide an independent review of child abuse and neglect determinations in instances in which the alleged perpetrator is aggrieved by the decision of the children's division. The division may establish more than one board to assure timely review of the determination.

2. The board shall consist of nine members, who shall be appointed by the governor with the advice and consent of the senate, and shall include:

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

(L. 1994 S.B. 595, A.L. 2004 H.B. 1453)

### **Division to provide programs and information--division to continuously inform persons required to report and public as to toll-free telephones available for abuse reports.**

210.155. 1. The division shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to sections 210.110 to 210.165 and the public of the nature, problem, and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families; and to encourage self-reporting and the voluntary acceptance of such services. In addition, those

mandated to report pursuant to this act shall be informed by the division of their duties, options, and responsibilities in accordance with this act.

2. The division shall conduct ongoing training programs in relation to sections 210.110 to 210.165 for agency staff.
3. The division shall continuously publicize to mandated reporters of abuse or neglect and to the public the existence and the number of the twenty-four hour, statewide toll free telephone service to receive reports of abuse or neglect.

(L. 1975 H.B. 578 § 10)

Effective 6-6-75

### **Guardian ad litem, how appointed--when--fee--volunteer advocates may be appointed to assist guardian--training program.**

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937\*, to ensure the safety and welfare of the children such persons are appointed to represent. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. Nonattorney volunteer advocates shall not provide legal representation. The court shall have the authority to examine the general and criminal background of

persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937\*, to ensure the safety and welfare of the children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

(L. 1975 H.B. 578 § 11, A.L. 1982 H.B. 1171, et al., A.L. 1985 H.B. 366, et al., A.L. 1988 H.B. 1272, et al., A.L. 1996 S.B. 869, A.L. 2004 H.B. 1453)

\*Section 210.937 was repealed by S.B. 184 in 2003.

(2004) Section authorizes court order requiring Division of Family Services to pay guardian ad litem for dependent child's attorney fees, where no party has been found to have abused or neglected the child. In re L.D.W., 145 S.W.3d 18 (Mo.App. E.D.).

## **Penalty for violation.**

210.165. 1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the division of family services and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

(L. 1975 H.B. 578 § 12, A.L. 1982 H.B. 1171, et al., A.L. 1986 S.B. 470)

(2004) Section criminalizing failure to report child abuse is not unconstitutional under void for vagueness doctrine. State v. Brown, 140 S.W.3d 51 (Mo.banc).

## **Medical neglect of child, who may bring action--procedure.**

210.166. The division of family services, any juvenile officer, any physician licensed under chapter 334, RSMo, any hospital or other health care institution, and any other person or institution authorized by state or federal law to provide medical care may bring an action in the circuit court in the county where any child under eighteen years of age resides or is located, alleging the child is suffering from the denial or deprivation, by those responsible for the care, custody, and control of the child, of medical or surgical treatment or intervention which is necessary to remedy or ameliorate a medical condition which is life-threatening or causes injury. Those responsible for the care, custody and control of the child include, but is not limited to, the parents or guardian of the child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. A petition filed under this section shall be expedited by the court involved in every manner practicable,

including, but not limited to, giving such petition priority over all other matters on the court's docket and holding a hearing, at which the parent, guardian or other person having authority to consent to the medical care in question shall, after being notified thereof, be given the opportunity to be heard, and issuing a ruling as expeditiously as necessary when the child's condition is subject to immediate deterioration. Any circuit or associate circuit judge of this state shall have the authority to ensure that medical services are provided to the child when the child's health requires it.

(L. 1985 S.B. 5, et al. § 5, A.L. 1994 S.B. 595)

### **Report to school district on violations of compulsory school attendance law--referral by school district to prosecutor, when.**

210.167. If an investigation conducted by the division of family services pursuant to section 210.145 reveals that the only basis for action involves a question of an alleged violation of section 167.031, RSMo, then the local office of the division shall send the report to the school district in which the child resides. The school district shall immediately refer all private, parochial, parish or home school matters to the prosecuting attorney of the county wherein the child legally resides. The school district may refer public school violations of section 167.031, RSMo, to the prosecuting attorney.

(L. 1984 H.B. 1255 § 1, A.L. 1985 S.B. 154 merged with H.B. 366, et al., A.L. 1986 S.B. 795)

Effective 6-19-86

### **Children's trust fund board created--members, appointment--qualifications--terms--vacancies--removal procedure--staff--expenses--office of administration, duties.**

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of twenty-one members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate. As a group, the public members appointed pursuant to this subdivision shall demonstrate knowledge in the area of prevention programs, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

- (a) Organized labor;
- (b) The business community;
- (c) The educational community;
- (d) The religious community;
- (e) The legal community;
- (f) Professional providers of prevention services to families and children;
- (g) Volunteers in prevention services;
- (h) Social services;

- (i) Health care services; and
- (j) Mental health services;
- (2) A physician licensed pursuant to chapter 334, RSMo;
- (3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties;
- (4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties; and
- (5) Four members chosen and appointed by the governor.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him or her by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36, RSMo.

5. Each member of the board may be reimbursed for all actual and necessary expenses incurred by the member in the performance of his or her official duties. All reimbursements made pursuant to this subsection shall be made from funds in the children's trust fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.173 and section 143.1000, RSMo, as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

## **Definitions.**

210.171. As used in sections 210.170 to 210.173 and section 143.1000, RSMo, the following terms shall mean:

- (1) "Board", the children's trust fund board created in section 210.170;
- (2) "Prevention program", any community-based educational or service program designed to prevent or alleviate child abuse or neglect.

(L. 1983 H.B. 550 § 1)

## **Powers and duties of board.**

210.172. The board shall have the following powers and duties:

- (1) To meet not less than twice annually at the call of the chairperson to conduct its official business;
- (2) To require that at least eight of the board members authorize the disbursement of funds from the children's trust fund;
- (3) To, one year after the appointment of the original board and annually thereafter, develop a state plan for the distribution and disbursement of funds in the children's trust fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment of prevention programs and the receipt of moneys from the children's trust fund in all geographic areas of this state. Such plan shall be transmitted to the governor, the president pro tem of the senate, the speaker of the Missouri house of representatives, and the appropriation committees of the Missouri senate and Missouri house of representatives, and shall be made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures to:
  - (a) Enter into contracts with public or private agencies, schools, or qualified individuals to establish community-based educational and service prevention programs with or without using the procurement procedures of the office of administration. Such prevention programs shall focus on the prevention of child abuse and neglect. Community-based service prevention programs shall include programs such as crisis care, parent aides, counseling, and support groups. Participation by individuals in any community-based educational or service prevention program shall be strictly voluntary. In awarding contracts under this paragraph, consideration shall be given by the board to factors such as need, geographic location diversity, coordination with or improvement of existing services, and extensive use of volunteers;
  - (b) Develop and publicize criteria for the awarding of contracts for programs to be supported with money from the children's trust fund within the limits of appropriations made for that purpose;
  - (c) Review and monitor expenditures of moneys from the children's trust fund on a periodic basis;
  - (d) Consult with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;
  - (e) Facilitate information exchange between groups concerned with prevention programs;
  - (f) Provide for statewide educational and public informational conferences and workshops for the purpose of developing appropriate public awareness regarding the problems of families and children, of encouraging professional persons and groups to recognize and deal with problems of families and children, of making information regarding the problems of families and children and their prevention available to the general public in order to encourage citizens to become involved in the prevention of such problems, and of encouraging the

development of community prevention programs; and

(g) Establish a procedure for an annual internal evaluation of the functions, responsibilities, and performance of the board, which evaluation shall be coordinated with the annual state plan of the board.

(L. 1983 H.B. 550 § 3, A.L. 1986 S.B. 688)

**Trust fund established--investment--disbursement, limitation, exception--exempt from transfer to general revenue.**

210.173. 1. There is established in the state treasury a special trust fund, to be known as the "Children's Trust Fund". The state treasurer shall credit to and deposit in the children's trust fund all amounts received under section 143.1000, RSMo, and any other amounts which may be received from grants, gifts, bequests, the federal government, or other sources granted or given for this specific purpose.

2. The state treasurer shall invest moneys in the children's trust fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the children's trust fund shall be credited to the children's trust fund.

3. Until the amount in the children's trust fund exceeds one million dollars, not more than one-half of the money deposited in the children's trust fund each year from contributions made under section 143.1000, RSMo, plus all earnings from the investment of moneys in the trust fund credited during the previous fiscal year, shall be available for disbursement by the board in accordance with sections 210.170 to 210.173 and section 143.1000, RSMo. When the state treasurer certifies that the assets in the children's trust fund exceed one million dollars, then, from that time on, all credited earnings plus all future annual deposits to the fund from contributions made under section 143.1000, RSMo, shall be available for disbursement by the board within the limits of appropriations and for the purposes provided by sections 210.170 to 210.173 and section 143.1000, RSMo. The general assembly may appropriate moneys annually from the children's trust fund to the department of revenue to pay the costs incurred for collecting and transferring funds under section 143.1000, RSMo, and to the office of administration to pay the expenses incurred by the office of administration for budgetary, procurement, accounting, and other related management functions performed by it and to pay the expenses of members of the board and the salary of the executive director.

4. Except as provided in subsection 5 of this section, funds appropriated by the general assembly from the children's trust fund shall only be used by the board for purposes authorized under sections 210.170 to 210.173 and section 143.1000, RSMo, and shall not be used to supplant any existing program or service.

5. Funds received from gifts, bequests, contributions other than contributions made pursuant to section 143.1000, RSMo, grants, and federal funds may be used and expended by the board for such purposes as may be specified in any requirements, terms or conditions attached thereto or, in the absence of any specific requirements, terms or conditions, as the board may determine for any lawful purpose.

6. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the ordinary revenue fund of this state at the end of each biennium, shall not apply to the children's trust fund.

(L. 1983 H.B. 550 § 4, A.L. 1987 S.B. 308)

Effective 6-19-87

CROSS REFERENCE:

Designation of a portion of income tax refund to children's trust fund, RSMo 143.1000

## **Division employees to be trained.**

210.180. Each employee of the division who is responsible for the investigation or family assessment of reports of suspected child abuse or neglect shall receive not less than forty hours of preservice training on the identification and treatment of child abuse and neglect. In addition to such preservice training such employee shall also receive not less than twenty hours of in-service training each year on the subject of the identification and treatment of child abuse and neglect.

(L. 1986 S.B. 470 § 1, A.L. 1994 S.B. 595)

## **Alleged perpetrator to be provided written description of investigation process.**

210.183. 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the Children's Division pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

This investigation is required by law to be conducted in order to enable the Children's Division to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services. The division shall make every reasonable attempt to complete the investigation within thirty days, except if a child involved in the pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed. Otherwise, within ninety days you will receive a letter from the Division which will inform you of one of the following:

(1) That the Division has found insufficient evidence of abuse or neglect; or

(2) That there appears to be by a preponderance of the evidence reason to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

If the Division finds by a preponderance of the evidence reason to believe child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

If you disagree with the determination of the Division and feel that there is insufficient reason to believe by a preponderance of the evidence that abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the Division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the Division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the parent of the child with the following information:

(1) The purpose of the contact with the family;

(2) The name of the person responding and his or her office telephone number;

(3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

(L. 1986 S.B. 470 § 2, A.L. 1994 S.B. 595, A.L. 2004 H.B. 1453, A.L. 2007 S.B. 25)

### **Child abuse and neglect services and funding, task force on children's justice to make recommendations and award grant moneys.**

210.187. 1. The task force on children's justice established by the children's division within the department of social services to recommend improvements in the area of child abuse and neglect services and provide funding for such recommendations shall provide an independent review of policies and procedures of state and local child protective services agencies, and where appropriate, specific cases, and shall evaluate the extent to which the agencies are effectively discharging their child protection responsibilities.

2. Consistent with the task force's function of reviewing applications for federal grant moneys available to the state under the Children's Justice Act which are designed to assist eligible states in implementing programs for the handling, investigation, and prosecution of child abuse cases, the task force shall consider the awarding of grant moneys which address the issues that arise from the independent review conducted by the task force pursuant to subsection 1 of this section. As authorized by the Children's Justice Act, grant moneys shall be awarded for the following categories:

(1) Improvements to the investigative, administrative, and judicial handling of cases of child abuse and neglect;

(2) Experimental, model, and demonstration programs for testing innovative approaches and techniques to improve the prompt and successful resolution of court proceedings or enhance the effectiveness and judicial administration action in child abuse and neglect cases; and

(3) Reform of state laws, rules, protocols, and procedures to provide comprehensive protection for children from abuse and neglect.

3. The members of the task force shall not disclose to any person or government official any identifying information concerning a specific child protection case with respect to which the task force is providing information and shall not make public other information unless authorized by federal or state law.

4. The task force shall be provided:

(1) Access to information on cases that the task force desires or is requested to review if such information is necessary for the task force to carry out its functions pursuant to this section; and

(2) Upon request, assistance from the department of social services for the performance of the task force's duties.

(L. 2004 H.B. 1453)

### **Report to general assembly and governor, contents.**

210.188. Beginning February 1, 2006, and each February first thereafter, the department of social services shall submit a report to the governor and the general assembly that includes the following information for the previous calendar year:

- (1) The number of children who were reported to the state of Missouri during the year as abused or neglected;
- (2) Of the number of children described in subdivision (1) of this section, the number with respect to whom such reports were substantiated or unsubstantiated;
- (3) Of the number of children described in subdivision (2) of this section:
  - (a) The number that did not receive or refused services during the year under a children's division program;
  - (b) The number that did receive services during the year under a state program; and
  - (c) The number that were removed from their families during the year by disposition of the case;
- (4) The number of families that received preventive services from the state or a private service provider during the year;
- (5) The number of deaths in the state during the year resulting from child abuse or neglect;
- (6) Of the number of children described in subdivision (5) of this section, the number of children who were in foster care or received services from a private service provider;
- (7) The number of child protective services workers responsible for the intake and screening of reports filed during the year;
- (8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect;
- (9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made;
- (10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated during the year;
- (11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and
- (12) The number of children in foster care who have been adopted.

(L. 2004 H.B. 1453)

**Child fatality review panel to investigate deaths--qualifications --prosecutors and circuit attorneys to organize--report on investigations--immunity from civil liability--program for prevention.**

210.192. 1. The prosecuting attorney or the circuit attorney shall impanel a child fatality review panel for the county or city not within a county in which he or she serves to investigate the deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth. The panel shall be formed and shall operate according to the rules, guidelines and protocols provided by the department of social services.

2. The panel shall include, but shall not be limited to, the following:

- (1) The prosecuting or circuit attorney;
- (2) The coroner or medical examiner for the county or city not within a county;

- (3) Law enforcement personnel in the county or city not within a county;
- (4) A representative from the division of family services;
- (5) A provider of public health care services;
- (6) A representative of the juvenile court;
- (7) A provider of emergency medical services.

3. The prosecuting or circuit attorney shall organize the panel and shall call the first organizational meeting of the panel. The panel shall elect a chairman who shall convene the panel to meet to review all deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth, which meet guidelines for review as set forth by the department of social services. In addition, the panel may review at its own discretion any child death reported to it by the medical examiner or coroner, even if it does not meet criteria for review as set forth by the department. The panel shall issue a final report, which shall be a public record, of each investigation to the department of social services, state technical assistance team and to the director of the department of health and senior services. The final report shall include a completed summary report form. The form shall be developed by the director of the department of social services in consultation with the director of the department of health and senior services. The department of health and senior services shall analyze the child fatality review panel reports and periodically prepare epidemiological reports which describe the incidence, causes, location and other factors pertaining to childhood deaths. The department of health and senior services and department of social services shall make recommendations and develop programs to prevent childhood injuries and deaths.

4. The child fatality review panel shall enjoy such official immunity as exists at common law.

(L. 1991 H.B. 185 § 1, A.L. 1991 S.B. 190 § 12, A.L. 1994 S.B. 595, A.L. 2000 S.B. 757 & 602)

### **Panels, coroners and medical examiners--rules authorized for protocol and identifying suspicious deaths, procedure.**

210.194. 1. The director of the department of social services, in consultation with the director of the department of health and senior services, shall promulgate rules, guidelines and protocols for child fatality review panels established pursuant to section 210.192 and for state child fatality review panels.

2. The director shall promulgate guidelines and protocols for coroner and medical examiners to use to help them to identify suspicious deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth.

3. No rule or portion of a rule promulgated under the authority of sections 210.192 to 210.196 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. All meetings conducted, all reports and records made and maintained pursuant to sections 210.192 to 210.196 by the department of social services and department of health and senior services and its divisions, including the state technical assistance team, or other appropriate persons, officials, or state child fatality review panel and local child fatality review panel shall be confidential and shall not be open to the general public except for the annual report pursuant to section 210.195.

(L. 1991 H.B. 185 § 2, A.L. 1993 S.B. 52, A.L. 1994 S.B. 595, A.L. 1995 S.B. 3)

### **State technical assistance team, duties--regional coordinators, appointment, duties--state**

## **child fatality review panel, appointment, duties, findings and recommendations, content.**

210.195. 1. The director of the department of social services shall establish a special team which shall:

- (1) Develop and implement protocols for the evaluation and review of child fatalities;
- (2) Provide training, expertise and assistance to county child fatality review panels for the review of child fatalities;
- (3) When required and unanimously requested by the county fatality review panel, assist in the review and prosecution of specific child fatalities; and
- (4) The special team may be known as the department of social services, state technical assistance team.

2. The director of the department of social services shall appoint regional coordinators to serve as resources to child fatality review panels established pursuant to section 210.192.

3. The director of the department of social services shall appoint a state child fatality review panel which shall meet at least biannually to provide oversight and make recommendations to the department of social services, state technical assistance team. The department of social services, state technical assistance team shall gather data from local child fatality review panels to identify systemic problems and shall submit findings and recommendations to the director of the department of social services, the governor, the speaker of the house of representatives, the president pro tempore of the senate, the children's services commission, juvenile officers, and the chairman of the local child fatality review panel, at least once a year, on ways to prevent further child abuse and injury deaths.

(L. 1991 H.B. 185 § 3, A.L. 1994 S.B. 595, A.L. 2000 S.B. 757 & 602)

## **Hospitals and physicians, rules authorized for protocol and identifying suspicious deaths--child death pathologist, qualification, certification--rules, procedure--records, disclosure.**

210.196. 1. The director of the department of health and senior services, in consultation with the director of the department of social services, shall promulgate rules, guidelines and protocols for hospitals and physicians to use to help them to identify suspicious deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth.

2. The director of the department of health and senior services shall promulgate rules for the certification of child death pathologists and shall develop protocols for such pathologists. A certified child death pathologist shall be a board-certified forensic pathologist or a board-certified pathologist who through special training or experience is deemed qualified in the area of child fatalities by the department of health and senior services.

3. Except as provided in section 630.167, RSMo, any hospital, physician, medical professional, mental health professional, or department of mental health facility shall disclose upon request all records, medical or social, of any child eligible to receive a certificate of live birth under the age of eighteen who has died to the coroner or medical examiner, division of family services representative, or public health representative who is a member of the local child fatality review panel established pursuant to section 210.192 to investigate the child's death. Any legally recognized privileged communication, except that between attorney and client, shall not apply to situations involving the death of a child under the age of eighteen years, who is eligible to receive a certificate of live birth.

(L. 1991 H.B. 185 § 4, A.L. 1993 S.B. 52, A.L. 1994 S.B. 595, A.L. 1995 S.B. 3)

## **Licensure through the department of health and senior services required for receipt of certain education funds.**

210.199. Any applicant for a grant or contract who offers early childhood development, education or care programs and who receives funds derived from an appropriation to the department of elementary and secondary education pursuant to paragraph (d) of subdivision (3) of section 313.835, RSMo, shall be licensed by the department of health and senior services pursuant to sections 210.201 to 210.259 prior to opening of the facility. The provisions of this section shall not apply to any grant or contract awarded to a request for proposal issued prior to August 28, 1999.

(L. 1999 H.B. 490 & H.B. 308 § 16)

### **Definitions.**

210.201. As used in sections 210.201 to 210.257, the following terms mean:

- (1) "Child", an individual who is under the age of seventeen;
- (2) "Child-care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. If a facility or program is exempt from licensure based on the school exception established in this subdivision, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status; except that, under no circumstances shall any public or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization be required to submit documentation annually to the department to verify its licensure-exempt status;
- (3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;
- (4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care facility is located is exempt from taxation because it is used for religious purposes.

(RSMo 1949 §§ 210.200, 210.210, A.L. 1955 p. 685 § 210.200, A.L. 1982 H.B. 1171, et al., A.L. 1989 S.B. 241, A.L. 1993 H.B. 376, A.L. 2002 S.B. 923, et al., A.L. 2004 H.B. 1453)

Prior revision: 1929 § 14133

(1989) Where definitions in statute are clear and unambiguous, department may not promulgate a regulation which is in conflict with the statute. (Mo.App.) Div. of Family Serv. v. Patterson Schools, 772 S.W.2d 823.

## **Complaints against child care facilities, open records to be kept by department.**

210.203. The department of health and senior services shall maintain a record of substantiated, signed parental complaints against child care facilities licensed pursuant to this chapter, and shall make such complaints and findings available to the public upon request.

(L. 1993 H.B. 376)

## **License required--exceptions.**

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

- (1) Any person who is caring for four or fewer children. For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;
- (2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;
- (3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;
- (4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;
- (5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;
- (6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760, RSMo, which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo; and
- (7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

(RSMo 1949 § 210.230, A.L. 1955 p. 685 § 210.210, A.L. 1982 H.B. 1171, et al., A.L. 1989 S.B. 241, A.L. 1993 H.B. 376, A.L. 1999 H.B. 490 & H.B. 308, A.L. 2004 H.B. 1453)

(1976) Held, that a lawyer is not required to be licensed by the division of family services in order to render legal services in connection with adoptions. In re Schaeffer (Mo.), 530 S.W.2d 231.

## **Access to child and care providers during normal hours--exception court orders restricting access.**

210.215. Any parent or guardian of a child shall have access to the child care facility in which his child is enrolled and which is licensed pursuant to the provisions of sections 210.201 to 210.245 and shall have access to the providers of care in such facilities during normal hours of operation or when a child of such parent or guardian is in the care of such facility or provider, unless such parent or guardian is subject to a court order restricting access to the child.

(L. 1993 H.B. 376)

## **Licenses to be issued by department of health and senior services--duty to fix standards and make investigations--rule variance granted when, procedure.**

210.221. 1. The department of health and senior services shall have the following powers and duties:

(1) After inspection, to grant licenses to persons to operate child-care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child-care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;

(2) To inspect the conditions of the homes and other places in which the applicant operates a child-care facility, inspect their books and records, premises and children being served, examine their officers and agents, deny, suspend, place on probation or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health and senior services. The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the division shall in any manner restrict or interfere with any religious instruction, philosophies or ministries provided by the facility and shall not apply to facilities operated by religious organizations which are not required to be licensed; and

(4) To determine what records shall be kept by such persons and the form thereof, and the methods to be used in keeping such records, and to require reports to be made to the department at regular intervals.

2. Any child-care facility may request a variance from a rule or regulation promulgated pursuant to this section. The request for a variance shall be made in writing to the department of health and senior services and shall include the reasons the facility is requesting the variance. The department shall approve any variance request that does not endanger the health or safety of the children served by the facility. The burden of proof at any appeal of a disapproval of a variance application shall be with the department of health and senior services. Local inspectors may grant a variance, subject to approval by the department of health and senior services.

3. The department shall deny, suspend, place on probation or revoke a license if it receives official written notice that the local governing body has found that license is prohibited by any local law related to the health and safety of children. The department may, after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best interest of the state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the

authority delegated in sections 210.201 to 210.245 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(RSMo 1949 § 210.240, A.L. 1955 p. 685 § 210.220, A.L. 1987 S.B. 277, A.L. 1993 H.B. 376 merged with S.B. 52, A.L. 1995 S.B. 3, A.L. 1999 H.B. 490 & H.B. 308)

Prior revision: 1929 § 14135

## **Department of health and senior services may delegate powers.**

210.231. The department of health and senior services may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the department of health and senior services to be competent, to investigate and inspect licensees and applicants for a license. Local inspection of child care facilities may be accomplished if the standards employed by local personnel are substantially equivalent to state standards and local personnel are available for enforcement of such standards.

(L. 1955 p. 685 § 210.230, A.L. 1982 H.B. 1171, et al., A.L. 1993 H.B. 376)

## **Judicial review.**

210.241. Any person aggrieved by a final decision of the department of health and senior services made in the administration of sections 210.201 to 210.245 shall be entitled to judicial review thereof as provided in chapter 536, RSMo.

(L. 1955 p. 685 § 210.240, A.L. 1993 H.B. 376)

## **Violations, penalties--prosecutor may file suit to oversee or prevent operation of day care center--attorney general may seek injunction, when.**

210.245. 1. Any person who violates any provision of sections 210.201 to 210.245, or who for such person or for any other person makes materially false statements in order to obtain a license or the renewal thereof pursuant to sections 210.201 to 210.245, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association, institution or society, the officers thereof who participate in such misdemeanor shall be subject to the penalties provided by law.

2. If the department of health and senior services proposes to deny, suspend, place on probation or revoke a license, the department of health and senior services shall serve upon the applicant or licensee written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or licensee shall have thirty days to request in writing a hearing before the administrative hearing commission and that such request shall be made to the department of health and senior services. If no written request for a hearing is received by the department of health and senior services within thirty days of the delivery or mailing by certified mail of the notice to the

applicant or licensee, the proposed discipline shall take effect on the thirty-first day after such delivery or mailing of the notice to the applicant or licensee. If the applicant or licensee makes a written request for a hearing, the department of health and senior services shall file a complaint with the administrative hearing commission within ninety days of receipt of the request for a hearing.

3. The department of health and senior services may issue letters of censure or warning without formal notice or hearing. Additionally, the department of health and senior services may place a licensee on probation pursuant to chapter 621, RSMo.

4. The department of health and senior services may suspend any license simultaneously with the notice of the proposed action to be taken in subsection 2 of this section, if the department of health and senior services finds that there is a threat of imminent bodily harm to the children in care. The notice of suspension shall include the basis of the suspension and the appeal rights of the licensee pursuant to this section. The licensee may appeal the decision to suspend the license to the department of health and senior services. The appeal shall be filed within ten days from the delivery or mailing by certified mail of the notice of appeal. A hearing shall be conducted by the department of health and senior services within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department of health and senior services, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission. Any person aggrieved by a final decision of the department made pursuant to this section shall be entitled to judicial review in accordance with chapter 536, RSMo.

5. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu thereof, the prosecuting attorney of the county where the child-care facility is located may file suit for a preliminary and permanent order overseeing or preventing the operation of a child-care facility for violating any provision of sections 210.201 to 210.245. The order shall remain in force until such a time as the court determines that the child-care facility is in substantial compliance. If the prosecuting attorney refuses to act or fails to act after receipt of notice from the department of health and senior services, the department of health and senior services may request that the attorney general seek an injunction of the operation of such child-care facility.

6. In cases of imminent bodily harm to children in the care of a child-care facility, the department may file suit in the circuit court of the county in which the child-care facility is located for injunctive relief, which may include removing the children from the facility, overseeing the operation of the facility or closing the facility.

(L. 1955 p. 685, A.L. 1993 H.B. 376, A.L. 1999 H.B. 490 & H.B. 308)

### **State and federal funds to be made available to centers to upgrade standards.**

210.251. 1. By January 1, 1994, financial incentives shall be provided by the department of health and senior services through the child development block grant and other public moneys for child-care facilities wishing to upgrade their standard of care and which meet quality standards.

2. The department of health and senior services shall make federal funds available to licensed or inspected child-care centers pursuant to federal law as set forth in the Child and Adult Food Program, 42 U.S.C. 1766.

(L. 1993 H.B. 376, A.L. 1999 H.B. 490 & H.B. 308)

### **Fire, safety, health and sanitation inspections, procedure--variances to rules granted when--rules authorized.**

210.252. 1. All buildings and premises used by a child-care facility to care for more than four children except those exempted from the licensing provisions of the department of health and senior services pursuant to

subdivisions (1), (2), (3), (4) and (6) of section 210.211, shall be inspected annually for fire and safety by the state fire marshal, the marshal's designee or officials of a local fire district and for health and sanitation by the department of health and senior services or officials of the local health department. Evidence of compliance with the inspections required by this section shall be kept on file and available to parents of children enrolling in the child-care facility.

2. Local inspection of child-care facilities may be accomplished if the standards employed by local personnel are substantially equivalent to state standards and local personnel are available for enforcement of such standards.

3. Any child-care facility may request a variance from a rule or regulation promulgated pursuant to this section. The request for a variance shall be made in writing to the department of health and senior services and shall include the reasons the facility is requesting the variance. The department shall approve any variance request that does not endanger the health or safety of the children served by the facility. The burden of proof at any appeal of a disapproval of a variance application shall be with the department of health and senior services. Local inspectors may grant a variance, subject to approval by the department.

4. The department of health and senior services shall administer the provisions of sections 210.252 to 210.256, with the cooperation of the state fire marshal, local fire departments and local health agencies.

5. The department of health and senior services shall promulgate rules and regulations to implement and administer the provisions of sections 210.252 to 210.256. Such rules and regulations shall provide for the protection of children in all child-care facilities whether or not such facility is subject to the licensing provisions of sections 210.201 to 210.245.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 210.252 to 210.256 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1993 H.B. 376 § 1, A.L. 1999 H.B. 490 & H.B. 308)

## **Religious organization operating facilities exempt under licensing laws required to file parental notice of responsibility and fire, safety inspections annually.**

210.254. 1. Child-care facilities operated by religious organizations pursuant to the exempt status recognized in subdivision (5) of section 210.211 shall upon enrollment of any child provide the parent or guardian enrolling the child two copies of a notice of parental responsibility, one copy of which shall be retained in the files of the facility after the enrolling parent acknowledges, by signature, having read and accepted the information contained therein.

2. The notice of parental responsibility shall include the following:

(1) Notification that the child-care facility is exempt as a religious organization from state licensing and therefore not inspected or supervised by the department of health and senior services other than as provided herein and that the facility has been inspected by those designated in section 210.252 and is complying with the fire, health and sanitation requirements of sections 210.252 to 210.257;

(2) The names, addresses and telephone numbers of agencies and authorities which inspect the facility for fire,

health and safety and the date of the most recent inspection by each;

(3) The staff/child ratios for enrolled children under two years of age, for children ages two to four and for those five years of age and older as required by the department of health and senior services regulations in licensed facilities, the standard ratio of staff to number of children for each age level maintained in the exempt facility, and the total number of children to be enrolled by the facility;

(4) Notification that background checks have been conducted on each individual caregiver and all other personnel at the facility. The background check shall be conducted upon employment and every two years thereafter on each individual caregiver and all other personnel at the facility. Such background check shall include a screening for child abuse or neglect through the division of family services, and a criminal record review through the Missouri highway patrol pursuant to section 43.540, RSMo. The fee for the criminal record review shall be limited to the actual costs incurred by the Missouri highway patrol in conducting such review not to exceed ten dollars;

(5) The disciplinary philosophy and policies of the child-care facility; and

(6) The educational philosophy and policies of the child-care facility.

3. A copy of notice of parental responsibility, signed by the principal operating officer of the exempt child-care facility and the individual primarily responsible for the religious organization conducting the child-care facility and copies of the annual fire and safety inspections shall be filed annually during the month of August with the director of the department of health and senior services. Exempt child-care facilities which begin operation after August 28, 1993, shall file such notice at least five days prior to starting to operate.

(L. 1993 H.B. 376 § 2 subsecs. 1, 2, 3, A.L. 1999 H.B. 490 & H.B. 308)

### **Religious organizations operating facility in violation, procedure --noncompliance after notice, prosecutor may act or attorney general.**

210.255. 1. A parent or guardian of a child enrolled in a child care facility established, maintained or operated by a religious organization who has cause to believe that this section and section 210.254 are being violated may notify appropriate local law enforcement authorities.

2. If a child care facility maintained or operated under the exclusive control of a religious organization is suspected of violating any provision of sections 210.252 to 210.255, or if there is good cause to believe that the signatory made a materially false statement in the notice of parental responsibility required by sections 210.252 to 210.255, the department of health and senior services shall give twenty days' written notice to the facility concerning the nature of its suspected noncompliance. If compliance is not forthcoming within the twenty days, the department shall thereafter notify the prosecuting attorney of the county wherein the facility is located concerning the suspected noncompliance. If the prosecuting attorney refuses to act or fails to act within thirty days of receipt of notice from the department, the department of health and senior services may notify the attorney general concerning the suspected noncompliance and the attorney general may proceed under section 210.248\*.

(L. 1993 H.B. 376 § 2 subsecs. 4, 5)

\*Apparent typographical error since section 210.248 did not exist in the Missouri Revised Statutes at the time of the passage of this section.

### **Violations, penalties--injunction, procedure.**

210.256. 1. Any person who violates any provision of sections 210.252 to 210.255, or who for such person or for

any other person makes a materially false statement in the notice of parental responsibility required by sections 210.254 and 210.255, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association, institution, or society, the officers thereof who participate in such violation shall be subject to the same penalties.

2. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu thereof, the prosecuting attorney of the county where the child-care facility is located may file suit for a preliminary and permanent order overseeing or preventing the operation of a child-care facility for violating any provision of section 210.252. The injunction shall remain in force until such time as the court determines that the child-care facility is in substantial compliance.

3. In cases of imminent bodily harm to children in the care of a child-care facility, the department of health and senior services may apply to the circuit court of the county in which the child-care facility is located for injunctive relief, which may include removing the children from the facility, overseeing the operation of the facility or closing the facility.

(L. 1993 H.B. 376 § 3, A.L. 1999 H.B. 490 & H.B. 308)

### **Rules, procedure to adopt.**

210.257. No rule or portion of a rule promulgated under the authority of section 210.252 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1993 H.B. 376 § 4, A.L. 1995 S.B. 3)

### **Religious organizations operating facility, no interference permitted with curriculum, personnel or selection of children--discipline policies, explanation required for parent.**

210.258. The provisions of this section and section 210.259 apply to a child care facility maintained or operated under the exclusive control of a religious organization. Nothing in sections 210.252 to 210.257 shall be construed to authorize the department of health and senior services or any other governmental entity:

- (1) To interfere with the program, curriculum, ministry, teaching or instruction offered in a child care facility;
- (2) To interfere with the selection, certification, minimal formal educational degree requirements, supervision or terms of employment of a facility's personnel;
- (3) To interfere with the selection of individuals sitting on any governing board of a child care facility;
- (4) To interfere with the selection of children enrolled in a child care facility; or
- (5) To prohibit the use of corporal punishment. However, the department of health and senior services may require the child care facility to provide the parent or guardian enrolling a child in the facility a written explanation of the disciplinary philosophy and policies of the child care facility.

(L. 1993 H.B. 376 § 6 subsec. 1)

### **Nonreligious organization's agreement for child-care facility on property of religious**

## **organization not deemed to be exclusive control by religious organization.**

210.259. When a nonreligious organization, having as its principal purpose the provision of child care services, enters into an arrangement with a religious organization for the maintenance or operation of a child care facility on the property of the religious organization, the facility is not under the exclusive control of the religious organization.

(L. 1993 H.B. 376 § 6 subsec. 2)

## **Child care provided on elementary and secondary school property must comply with child-care licensure provisions.**

210.275. Any program licensed by the department of health and senior services pursuant to this chapter providing child care to school-age children that is located and operated on elementary or secondary school property shall comply with the child-care licensure provisions in this chapter; except that, for safety, health and fire purposes, all buildings and premises for any such programs shall be deemed to be in compliance with the child-care licensure provisions in this chapter.

(L. 2001 S.B. 236 § 1)

## **State to reimburse certain cities and counties for cost of foster home care.**

210.292. 1. Any city not within a county, which has a population of six hundred thousand inhabitants or over, and any county of the first class authorized by law to provide, and which does provide, foster care to homeless, dependent or neglected children shall receive from the state one hundred percent of the net cost thereof.

2. The "foster care" provided for by sections 210.292 to 210.298 shall be care of homeless, dependent or neglected children when the foster facilities are selected by the local agency or division of family services and the placement of children therein is lawfully authorized; the "care" shall include room, board, clothing, medical care, dental care, social services and incidentals.

(L. 1965 p. 360 §§ 1, 2, A.L. 1969 H.B. 279, A.L. 1977 H.B. 578)

Effective 1-1-78

## **Regulation of detention facility--taxation of cigarettes to support, rate--discount for wholesaler--refunds--failing to affix stamps or pay tax, penalty--possession of unstamped cigarettes, prima facie evidence cigarettes intended for sale, exception--seizure of property, when, procedure--rules, procedure--violation of a misdemeanor--budget (certain first class counties).**

210.320. 1. The county commission or other legislative authority in any such county, or the circuit judges en banc in any first class county with the greater part of a city of three hundred fifty thousand or more population, shall make all rules and regulations for the government of such places of detention, make a budget for operations, appoint officers and attendants, including teachers, prescribe their duties and fix their compensation. The expense of maintaining such place of detention, including the compensation of officers and employees thereof, shall be paid out of any funds available for the purpose, as the county commission deems proper; except, that no portion of the special road fund shall be appropriated for this purpose.

2. In any first class county with the greater part of a city of three hundred fifty thousand or more population, to defray in whole or in part the expenses of such places of detention and any other children's services, the county commission or other legislative authority is hereby authorized to impose a tax on the sale of cigarettes made of tobacco or any substitute for tobacco, not to exceed two and one-half mills per cigarette sold in the county.
3. The rate of taxation shall not be greater than the amount required for children's services.
4. The county cigarette tax shall be collected by the state department of revenue in the same manner as is provided by chapter 149, RSMo, for the collection of the state cigarette tax. The director of revenue shall retain, from the county tax collected, one percent of the amount collected and deposit that amount in the state general revenue fund to help defray the cost to the state of collecting and distributing this tax.
5. The county tax shall be paid, county stamps or meter impressions shall be affixed, records covering the business carried on in any county adopting the tax herein provided shall be kept in Missouri, records shall be subject to the examination of any authorized representative of the director, and reports covering the county tax required by the director shall be filed in the same manner as is provided by chapter 149, RSMo, for the state cigarette tax; except, that the payment of the county tax shall not be deferred and a two percent discount shall be given any wholesaler for affixing stamps or making reports required by the director.
6. The director may make refunds or exchange county stamps or meter units on unused county stamps or meter units or on county stamps or meter impressions affixed to any packages of cigarettes which have become unsalable in the same manner as is provided by chapter 149, RSMo, for the refund or exchange of state cigarette tax stamps or meter units.
7. If after any audit, examination of records or other investigation the director finds that any person has sold cigarettes in any county adopting the cigarette tax herein provided, without county stamps or meter impressions affixed thereto or that any person has failed to pay the county tax on cigarettes sold in such counties, the director shall assess such county tax against such person, together with a penalty equal to one hundred percent of the county tax due and the tax and penalty thereon shall bear interest at the rate of six percent per annum from the date such cigarettes were sold in such county until the date of payment. The county taxes and penalties assessed under this section shall be a first lien on all property and assets of such person within this state.
8. No person, other than licensed wholesalers or other persons specifically provided for in chapter 149, RSMo, shall possess for the purpose of sale in any county adopting the tax herein provided, any cigarettes to which stamps or meter impressions evidencing the county tax are not affixed. Mere possession of unstamped packages of such cigarettes shall be prima facie evidence that the cigarettes are intended for sale in such county.
9. All cigarettes to which county stamps or meter impressions are not affixed which shall be found in the possession, custody, or control of any person, for the purpose of being consumed, sold or transported into, within or through any county adopting the tax herein provided, for the purpose of evading the provision of this section, or with intent to avoid payment of the county tax authorized hereunder, and any motor vehicle, truck or other conveyance whatsoever used in the transportation of such cigarettes, and all paraphernalia, equipment or other tangible personal property incident to the use of such purposes, found in the place, building, vehicle, or vehicles where the cigarettes are found may be seized by the director or his duly authorized agents, or any peace officer within the state, and the same shall be, from the time of the seizure, forfeited to the county of seizure and a proper proceeding filed in a court of competent jurisdiction in the county of seizure, to maintain the seizure and prosecute the forfeiture in the same manner as is provided by section 149.055, RSMo, for the state cigarette tax.
10. The director of revenue of this state shall promulgate reasonable and necessary regulations for the collection of this tax. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.
11. Any person who commits any act or omission with regard to cigarettes sold or intended to be sold in any county adopting the tax herein provided; or with relation to stamps applied or intended to be applied to cigarettes for sale in any such county, or with respect to records, reports, or returns of sales made taxable under this section;

which if done with regard to cigarettes made taxable under chapter 149, RSMo, or stamps or records prescribed thereunder, would be a violation of said chapter, shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law.

12. The budget for the operation of such places of detention shall be fixed by the circuit judges en banc in counties of the first class with the greater part of a city of three hundred fifty thousand or more population. Such budget shall be filed with the county commission or other legislative authority at the same time as, and becomes a part of, the budget of the circuit court en banc for the performance of its other duties and functions.

(RSMo 1939 § 9189, A.L. 1969 S.B. 241, A.L. 1976 S.B. 707, A.L. 1978 H.B. 1634, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

Prior revisions: 1929 § 14849; 1919 § 13804; 1909 § 1711

## **Definitions.**

210.481. As used in sections 210.481 to 210.536, unless the context clearly requires otherwise, the following terms shall mean:

- (1) "Child", any individual under eighteen years of age or in the custody of the division;
- (2) "Child placing agency", any person, other than the parents, who places a child outside the home of the child's parents or guardian, or advertises or holds himself forth as performing such services, but excluding the attorney, physician, or\* clergyman of the parents;
- (3) "Division", the division of family services of the department of social services of the state of Missouri;
- (4) "Foster home", a private residence of one or more family members providing twenty-four-hour care to one or more but less than seven children who are unattended by parent or guardian and who are unrelated to either foster parent by blood, marriage, or adoption;
- (5) "Guardian", the person designated by a court of competent jurisdiction as the "guardian of the person of a minor" or "guardian of the person and conservator of the estate of a minor";
- (6) "License", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which authorizes the foster home, residential care facility, or child placing agency to operate its program in accordance with the applicable provisions of sections 210.481 to 210.536 and rules issued pursuant thereto;
- (7) "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used;
- (8) "Provisional license", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which is not currently meeting requirements for full licensure;
- (9) "Related", any of the following by blood, marriage, or adoption: Parent, grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin;
- (10) "Residential care facility", a facility providing twenty-four-hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian.

(L. 1982 H.B. 1171, et al., A.L. 1985 H.B. 366, et al.)

\*Word "or" does not appear in original rolls.

## **Background checks for emergency placements, requirements, exceptions--cost, paid by whom.**

210.482. 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry.

For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of or pled guilty or nolo contendere to any crime.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen calendar days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home and all children less than seventeen residing in the home who the division has determined have been certified as an adult for the commission of a crime shall report to a local law enforcement agency for the purpose of providing two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home and all children less than seventeen years of age residing in the home who the division has determined have been certified as an adult for the commission of a crime shall, within fifteen calendar days, submit to the juvenile court or the children's division two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

4. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

5. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

## **Residential care facilities license required.**

210.484. Notwithstanding any other provision of law to the contrary, the department of health and senior services shall license residential care facilities, as defined in subdivision (10) of section 210.481.

(L. 1993 H.B. 376 § 5)

## **Civil liability, for-profit child-placing agency or residential care facility, when--state exemption.**

210.485. 1. Any owner or operator of a for-profit child-placing agency or residential care facility licensed pursuant to sections 210.481 to 210.536, may be held civilly liable for any injury to another person or damage to property which occurs outside such facility and is caused by a child who is absent without authorization or approval from the facility but who is in the care of such facility. Such civil liability shall be determined in the same manner and amounts as provided for parents in section 211.185, RSMo. Nothing in this section shall alter, impair or otherwise affect other claims, rights or remedies available pursuant to law.

2. The state of Missouri and any political subdivision thereof shall not be subject to civil liability pursuant to subsection 1 of this section.

(L. 1999 H.B. 490 & H.B. 308)

## **License required, applicants to be investigated--provisional license, when--periods of validity.**

210.486. 1. No person shall operate or maintain a foster home, residential care facility, or child placing agency without having in full force and effect a valid license issued by the division or the department of health and senior services as provided in section 210.484.

2. The division or the department of health and senior services as provided in section 210.484 shall conduct an investigation of all applicants and such investigation shall include examination of the physical facility and investigation of persons responsible for the care of, planning, and services for the children being served.

3. The division or the department of health and senior services as provided in section 210.484 shall issue a license upon being satisfied that the applicant complies with the applicable provisions of sections 210.481 to 210.536 and rules issued pursuant thereto.

4. The division or the department of health and senior services as provided in section 210.484 shall initiate action on an application within a reasonable time, which shall not exceed thirty days, from receipt of the application.

5. The license shall be valid for a period not to exceed two years from date of issuance.

6. The division or the department of health and senior services as provided in section 210.484 may issue a provisional license to a foster home, residential care facility, or child placing agency that is not currently meeting requirements for full licensure but demonstrates the potential capacity to meet full requirements for licensure; but no provisional license shall be issued unless the director is satisfied that the operation of the foster home, residential care facility, or child placing agency so licensed is not detrimental to the health and safety of the children being served. The provisional license shall be nonrenewable and shall be valid for a period not to exceed six months from date of issuance.

**Background checks for foster families, requirements--costs, paid by whom--rulemaking authority.**

210.487. 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home and any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime is listed on the child abuse and neglect registry. For any children less than seventeen years of age residing in the applicant's home, the children's division shall inquire of the applicant whether any children less than seventeen years of age residing in the home have ever been certified as an adult and been convicted of or pled guilty or nolo contendere to any crime.

2. After the initial investigation is completed under subsection 1 of this section, the children's division and the department of health and senior services may waive the requirement for a fingerprint background check for any subsequent recertification.

3. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

4. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

5. The division may promulgate rules that are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

**Investigation of certain facilities by the division, when--injunctive relief, when.**

210.491. 1. The director of the division, or the director's authorized representative, shall have the right to enter the premises of an applicant for or holder of a license at reasonable hours to determine compliance with the applicable provisions of sections 210.481 to 210.536 and rules promulgated pursuant thereto, and for investigative purposes involving complaints regarding the operation of a foster home, residential care facility, or child placing agency.

2. Whenever the division is advised or has reason to believe that any person is operating a foster home, residential care facility, or child placing agency subject to licensure under sections 210.481 to 210.536 without a license or provisional license, the division shall make an investigation to ascertain the facts. If the division finds that the foster home, residential care facility, or child placing agency is being operated without a license or provisional license, it may seek injunctive relief against the foster home, residential care facility, or child placing agency. If a foster home, residential care facility or child placing agency violates the provisions of sections 210.481 to 210.536, the prosecuting attorney of the county where the foster home, residential care facility or child placing agency is located, or the division, may seek injunctive relief. Such injunctive relief may include:

- (1) Removing the children from the foster home, residential care facility, or child placing agency;
- (2) Overseeing the operation of the foster home, residential care facility, or child placing agency; or
- (3) Closing the foster home, residential care facility, or child placing agency.

3. The order provided for in subsection 2 of this section shall remain in force until such a time as the court determines that the foster home, residential care facility, or child placing agency is in substantial compliance.

(L. 1982 H.B. 1171, et al., A.L. 1997 H.B. 343)

CROSS REFERENCE:

Application of law to adoption petitions filed on or after August 28, 1997, RSMo 453.012

## **Refusal to issue, suspension or revocation of licenses--grounds.**

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

- (1) Fails consistently to comply with the applicable provisions of sections 208.400 to 210.535 and the applicable rules promulgated thereunder;
- (2) Violates any of the provisions of its license;
- (3) Violates state laws or rules relating to the protection of children;
- (4) Furnishes or makes any misleading or false statements or reports to the division;
- (5) Refuses to submit to the division any reports or refuses to make available to the division any records required by the division in making an investigation;
- (6) Fails or refuses to admit authorized representatives of the division at any reasonable time for the purpose of investigation;
- (7) Fails or refuses to submit to an investigation by the division;
- (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the premises established or used for the care of children being served, as required by law, rule, or ordinance applicable to the location of the foster home or residential care facility; or

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

(L. 1982 H.B. 1171, et al.)

### **Access to records on the suspension or revocation of a foster home license--procedure for release of information.**

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

(L. 1997 S.B. 358)

### **Application for licensure, form, contents.**

210.501. 1. Application for license shall be made on forms supplied by the division and in the manner prescribed.

2. Each license shall state clearly the name of the foster home, residential care facility, or child placing agency, its location, the kind of program the licensee is permitted to undertake, and the number, age range, and other pertinent information concerning children who may be served.

(L. 1982 H.B. 1171, et al.)

### **Rules, procedure--promulgation, persons to be consulted.**

210.506. 1. The division shall promulgate and publish rules in accordance with this section and chapter 536, RSMo, for the licensing of foster homes, residential care facilities, and child placing agencies. In promulgating such rules the division shall consult with:

(1) Appropriate state agencies which are hereby directed to cooperate with and assist the division;

(2) Representatives from the foster homes, residential care facilities, and child placing agencies subject to licensure under sections 210.481 to 210.536; and

(3) Persons from the various professional fields relevant to the licensing of the foster homes, residential care facilities, and child placing agencies.

2. The rules so promulgated shall be designed to promote the health, safety, and well-being of children served by the foster homes, residential care facilities, and child placing agencies. No rule or portion of a rule promulgated

under the authority of sections 210.481 to 210.565 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1982 H.B. 1171, et al., A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

## **Division to assist applicants in meeting license requirements and establishing certain programs, how.**

210.511. The division shall offer technical assistance or consultation to assist applicants for licensure, licensees, and holders of provisional licenses in meeting license requirements, staff qualifications, and other aspects involving the operation of a foster home, residential care facility, or child placing agency, and to assist in the achievement of programs of excellence related to the care of children being served.

(L. 1982 H.B. 1171, et al.)

## **Exceptions to license requirement--division may not require documentation.**

210.516. 1. It shall be unlawful for any person to establish, maintain, or operate a foster home, residential care facility, or child placing agency, or to advertise or hold himself out as being able to perform any of the services as defined in sections 210.481 to 210.536, without having in full force and effect a license issued by the division; provided, however, that nothing in sections 210.481 to 210.536 shall apply to:

- (1) Any residential care facility operated by a person in which the care provided is in conjunction with an educational program for which a tuition is charged and completion of the program results in meeting requirements for a diploma recognized by the state department of elementary and secondary education;
- (2) Any camp, hospital, sanitarium, or home which is conducted in good faith primarily to provide recreation, medical treatment, or nursing or convalescent care for children;
- (3) Any person who receives free of charge, and not as a business, for periods of time not exceeding ninety consecutive days, the child of personal friends of such person as an occasional and personal guest, and who receives custody of no other unrelated child;
- (4) Any child placing agency operated by the department of mental health or any foster home or residential care facility operated or licensed by the department of mental health under sections 630.705 to 630.760, RSMo, which provides care, treatment, and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo;
- (5) Any foster home arrangement established and operated by any well-known religious order or church and any residential care facility or child placement agency operated by such organization; or
- (6) Any institution or agency maintained or operated by the state, city or county.

2. The division shall not require any foster home, residential care facility, or child placing agency which believes itself exempt from licensure as provided in subsection 1 of this section to submit any documentation in support of the claimed exemption; however said foster home, residential care facility, or child placing agency is not precluded from furnishing such documentation if it chooses to do so.

(L. 1982 H.B. 1171, et al. §§ 210.516, 210.521)

## **Departments' duties, classification of services to children--interagency meetings for coordination of services.**

210.518. 1. The department of social services, the department of mental health, the department of elementary and secondary education and all subdivisions thereof shall develop and implement through interagency agreement a common system of classification for assessing the needs of a child and common terminology to describe the services to be provided to the child. The agreement must establish a standardized form and set of records to be kept for such children which shall include, if applicable to such child, any individualized education plan, diagnostic summary, school history, school records, medical history, court records, placement orders and any criminal history. The agreement shall be adopted and in effect on or before July 1, 1999.

2. To facilitate the coordination of services being provided to children, interagency meetings pursuant to subsection 1 of this section shall be held as frequently as appropriate to address and review any actions being taken by agency personnel involved in the provision of services to a child and to ensure the existence of a continuation of services to prevent and treat child abuse and neglect, evaluate data, policy, and practices, and assure the quality of services provided to children. The agencies shall document which staff members attended such meetings. If any services for the child are provided through contracted providers, such providers shall be included in the meetings described in this section.

(L. 1998 H.B. 1683, A.L. 2004 H.B. 1453)

## **Assistance for division in licensure of foster homes.**

210.521. 1. The division may designate to act for it a licensed child placing agency to inspect and recommend for licensure foster homes and prospective foster homes either utilized by or to be utilized by that child placing agency.

2. The division may designate to act for it an instrumentality of any political subdivision of the state of Missouri deemed by the division to be competent to assist in investigating and inspecting licensees and applicants for license.

(L. 1982 H.B. 1171, et al. § 210.526)

## **Grievance procedure for decisions of division, requirements--judicial review authorized.**

210.526. 1. Any person aggrieved by a final decision of the division made in the administration of sections 210.481 to 210.536 shall be entitled to judicial review as provided in chapter 536, RSMo.

2. The division shall establish a grievance procedure which shall be available to licensees under sections 210.481 to 210.536 and shall inform all licensees of that procedure in writing.

(L. 1982 H.B. 1171, et al. § 210.531)

## **Violations or false statements, penalty.**

210.531. Any person who violates any applicable provision of sections 210.481 to 210.536, or who for himself or for any other person makes materially false statements in order to obtain a license or the renewal thereof shall be guilty of a class A misdemeanor. In case such guilty person be a corporation, association, institution, or society,

the officers thereof who participate in the activity shall upon conviction be subject to the penalties provided by law.

(L. 1982 H.B. 1171, et al. § 210.536 subsec. 1)

### **Foster care and adoption assistance under federal Social Security Act, amendments to plan and waivers to be submitted.**

210.535. The department of social services shall:

- (1) Submit amendments to state plans and seek available waivers from the federal Department of Health and Human Services to enhance federal reimbursement and federal administrative reimbursement for foster care and adoption assistance under Title IV-E of the Social Security Act and Title XIX of the Social Security Act; and
- (2) Take the necessary steps to qualify the state for receipt of any federal block grant moneys which are or will be available for foster care and adoption assistance.

(L. 2004 H.B. 1453)

### **Cost of foster care, how paid--failure of parent to pay required amount, court orders against assets, collection procedure.**

210.536. 1. The cost of foster care shall be paid by the division of family services pursuant to chapter 207, RSMo, except that the court shall evaluate the ability of parents to pay part or all of the cost for such care, and shall order such payment to the department of social services.

2. The court may effectuate such order against any asset of the parent for failure to provide part or all of the cost of foster care according to the court order; provided further, that any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the recorder of deeds in the county in which the parent resides or in which the asset is located. The department of social services may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third party payment shall be paid directly to the department of social services.

(L. 1982 H.B. 1171, et al. § 210.536 subsec. 2, 3)

### **County foster parent associations may be established, duties of division of family services.**

210.537. The division of family services shall cooperate with and shall help promote foster parent associations in each county. The division of family services shall provide county foster parent associations with data, information and guidelines on the obligations, responsibilities and opportunities of foster parenting and shall keep the associations and members apprised of changes in laws and regulations relevant to foster parenting.

(L. 1990 H.B. 1370, et al. § 8)

### **Training and standards for foster parents to be provided, when--evaluation of foster parents.**

210.542. 1. The children's division shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.

2. The children's division shall provide performance-based criteria for the evaluation of licensed foster parents and may establish by rule the frequency of such evaluation.

(L. 2004 H.B. 1453 merged with S.B. 762)

### **Specialized foster parents, training, fiscal incentives.**

210.543. The division of family services shall train and license a separate category of foster parents who are able to provide special care and supervision to foster children who have special needs because of a history of sexual abuse, serious physical abuse, or severe chronic neglect. The training received by such specialized foster parents shall be in addition to the training required in section 210.540. Fiscal incentives for training and/or longevity may be provided by the division, subject to appropriation. The division shall place foster children with such specialized foster parents subject to available funds.

(L. 1987 S.B. 244)

### **Respite care facilities for foster families--rules and regulations --procedure.**

210.545. 1. The division of family services shall establish reasonably accessible respite care facilities which may be utilized by foster parents licensed by the division. Such licensed foster parents shall be permitted to leave agency foster children in the respite care facilities for periods of time determined jointly by the foster parent and the division and subject to available funds.

2. Such respite care facilities may be licensed day care centers or residential treatment centers who have contracted with the division to provide such services. Licensed foster homes may also be designated as respite care facilities.

3. The division of family services shall promulgate rules and regulations necessary to implement the provisions of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

(L. 1987 S.B. 244, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

### **Grievance procedure for decisions of division to be developed with cooperation of foster parents group.**

210.551. The division of family services shall, by January 1, 1988, develop a procedure by which foster parents may appeal adverse decisions affecting their rights made by the division. Such procedure shall be mutually agreed upon by the division and an organization of foster parents with whom they shall consult.

(L. 1987 S.B. 244 § 3)

### **Money held by others for benefit of a child, definitions, liability to the state for funds expended for child, when--money held by division of family services for a child,**

## **accounting, deposit of funds, annual statement, disposal of funds--escheat, when.**

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

- (1) "Child", any child placed in the legal custody of the division under chapter 211, RSMo;
- (2) "Division", the division of family services of the department of social services of the state of Missouri;
- (3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or check;
- (4) "Vested right", a legal right that is more than a mere expectancy and may be reduced to a present monetary value.

2. The child, the child's parents, any fiduciary or any representative payee holding or receiving money that are vested rights solely for or on behalf of a child are jointly and severally liable for funds expended by the division to or on behalf of the child. The liability of any person, except a parent of the child, shall be limited to the money received in his fiduciary or representative capacity. The Missouri state government shall not require a trustee or a financial institution acting as a trustee to exercise any discretionary powers in the operation of a trust.

3. The division may accept an appointment to serve as representative payee or fiduciary, or in a similar capacity for payments to a child under any public or private benefit arrangement. Money so received shall be governed by this section to the extent that laws and regulations governing payment of such benefits provide otherwise.

4. Any money received by the division on behalf of a child shall be accounted for in the name of the child. Any money in the account of a child may be expended by the division for care or services for the child. The division shall by rule adopted under chapter 536, RSMo, establish procedures for the accounting of the money and the protection of the money against theft, loss or misappropriation.

5. The division shall deposit money with a financial institution. Any earnings attributable to the money in the account of a child shall be credited to that child's account. The division shall receive bids from banking corporations, associations or trust companies which desire to be selected as depositories of children's moneys for the division.

6. The division may accept funds which a parent, guardian or other person wishes to provide for the use or benefit of the child. The use and deposit of such funds shall be governed by this section and any additional directions given by the provider of the funds.

7. Each child for whose benefit funds have been received by the division and the guardian ad litem of such child shall be furnished annually with a statement listing all transactions involving the funds which have been deposited on the child's behalf, to include each receipt and disbursement.

8. The division shall use all proper diligence to dispose of the balance of money accumulated in the child's account when the child is released from the care and custody of the division or the child dies. When the child is deceased the balance shall be disposed of as provided by law for descent and distribution. If, after the division has diligently used such methods and means as considered reasonable to refund such funds, there shall remain any money, the owner of which is unknown to the division, or if known, cannot be located by the division, in each and every such instance such money shall escheat and vest in the state of Missouri, and the director and officials of the division shall pay the same to the state director of the department of revenue, taking a receipt therefor, who shall deposit the money in the state treasury to be credited to a fund to be designated as "escheat".

9. Within five years after money has been paid into the state treasury, any person who appears and claims the money may file a petition in the circuit court of Cole County, Missouri, stating the nature of the claim and praying that such money be paid to him. A copy of the petition shall be served upon the director of the department of revenue who shall file an answer to the same. The court shall proceed to examine the claim and the allegations and proof, and if it finds that such person is entitled to any money so paid into the state treasury, it shall order the

commissioner of administration to issue a warrant on the state treasurer for the amount of such claim, but without interest or costs. A certified copy of the order shall be sufficient voucher for issuing a warrant; provided, that either party may appeal from the decision of the court in the same manner as provided by law in other civil actions.

10. All moneys paid into the state treasury under the provisions of this section after remaining there unclaimed for five years shall escheat and vest absolutely in the state and be credited to the state treasury, and all persons shall be forever barred and precluded from setting up title or claim to any such funds.

11. Nothing in this section shall be deemed to apply to funds regularly due the state of Missouri for the support and maintenance of children in the care and custody of the division or collected by the state of Missouri as reimbursement for state funds expended on behalf of the child.

(L. 1987 S.B. 244 § 4)

**Relatives of child shall be given foster home placement, when--relative, defined--death or dissolution not to affect grandparents' status--specific findings required, when--age of relative not a factor, when--federal requirements to be followed for placement of Native American children.**

210.565. 1. Whenever a child is placed in a foster home and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child, the children's division shall give foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

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

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

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

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

(L. 1990 H.B. 1370, et al., A.L. 1994 H.B. 1547 & 961, A.L. 2004 H.B. 1453 merged with S.B. 762)

**Foster parents' bill of rights.**

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

members of the child welfare team in a manner consistent with their ethical responsibilities as professional team members.

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

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

(2) The children's division and its contractors shall provide to foster parents and potential adoptive parents, prior to placement, all pertinent information, including but not limited to full disclosure of all medical, psychological, and psychiatric conditions of the child, as well as information from previous placements that would indicate that the child or children may have a propensity to cause violence to any member of the foster family home. The foster parents shall be provided with any information regarding the child or the child's family, including but not limited to the case plan, any family history of mental or physical illness, sexual abuse of the child or sexual abuse perpetrated by the child, criminal background of the child or the child's family, fire-setting or other destructive behavior by the child, substance abuse by the child or child's family, or any other information which is pertinent to the care and needs of the child and to protect the foster or adoptive family. Knowingly providing false or misleading information to foster parents in order to secure placement shall be denoted in the caseworker's personnel file and shall be kept on record by the division.

(3) The children's division and its contractors shall arrange preplacement visits, except in emergencies.

(4) The foster parents may ask questions about the child's case plan, encourage a placement or refuse a placement without reprisal from the caseworker or agency. After a placement, the children's division and its contractors shall update the foster parents as new information about the child is gathered.

(5) Foster parents shall be informed in a timely manner by the children's division and its contractors of all team meetings and staffings concerning their licensure status or children placed in their homes, and shall be allowed to participate, consistent with section 210.761.

(6) The children's division and its contractors shall establish reasonably accessible respite care for children in foster care for short periods of time, jointly determined by foster parents and the child's caseworker pursuant to section 210.545. Foster parents shall follow all procedures established by the children's division and its contractors for requesting and using respite care.

(7) Foster parents shall treat all information received from the children's division and its contractors about the child and the child's family as confidential. Information necessary for the medical or psychiatric care of the child may be provided to the appropriate practitioners. Foster parents may share information necessary with school personnel in order to secure a safe and appropriate education for the child. Additionally, foster parents shall share information they may learn about the child and the child's family, and concerns that arise in the care of the child, with the caseworker and other members of the child welfare team. Recognizing that placement changes are difficult for children, foster parents shall seek all necessary information, and participate in preplacement visits whenever possible, before deciding whether to accept a child for placement.

3. (1) Foster parents shall make decisions about the daily living concerns of the child, and shall be permitted to continue the practice of their own family values and routines while respecting the child's cultural heritage. All discipline shall be consistent with state laws and regulations. The children's division shall allow foster parents to help plan visitation between the child and the child's siblings or biological family. Visitations should be scheduled at a time that meets the needs of the child, the biological family members, and the foster family whenever possible. Recognizing that visitation with family members is an important right of children in foster care, foster parents shall be flexible and cooperative with regard to family visits.

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

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

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

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

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

(4) If a child becomes free for adoption while in foster care, the child's foster family shall be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

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

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

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

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

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

(L. 2002 S.B. 923, et al., A.L. 2007 S.B. 25)

**Juvenile offender regimented discipline program, certain counties--commitments, manner--vote required to establish program, ballot.**

210.568. 1. In a county of the first classification with a population of at least two hundred thousand that adjoins no

other counties of the first classification, the governing body of the county after an affirmative vote pursuant to subsection 2 of this section, may establish within the county a "Juvenile Offender Regimented Discipline Program", to be known as the "Juvenile Offender Boot Camp of ..... County". After establishment of such a program within any county of the first classification, the juvenile court of the circuit may, notwithstanding any provision of chapter 211, RSMo, commit any person to such program for a duration to be determined by the court, but not to exceed the time which the juvenile court retains jurisdiction over such person. Commitments to the program shall be reserved for persons subject to the jurisdiction of the juvenile court who have been adjudicated or found to have committed an act which would constitute a felony if committed by an adult, or persons subject to the jurisdiction of the juvenile court who, in the determination of the court, would benefit from a commitment to the program.

2. No county of the first classification shall establish a regimented discipline program pursuant to this section until the establishment of such a program has been approved by a majority of the voters of the county voting thereon. The question may be submitted in substantially the following form:

"Shall the county of ..... establish a regimented discipline program, to be known as the "Juvenile Offender Boot Camp of ..... County", for the treatment and rehabilitation of juvenile delinquents?"

YES  NO

3. If a majority of the voters voting thereon are in favor of the proposal submitted pursuant to subsection 2 of this section, the county commission may establish the program. If a majority of the voters voting thereon are not in favor of the proposal submitted pursuant to subsection 2 of this section, the county commission shall not establish the program and shall not resubmit the question to the voters of the county for a period of at least one year after the date of such election.

4. Any regimented discipline program established pursuant to this section may be modeled after the regimented discipline program administered by the department of corrections pursuant to section 217.378, RSMo.

(L. 1995 S.B. 347 § 1)

## **Text of compact.**

210.570. This interstate compact for juveniles is entered with all jurisdictions legally joining the compact in the form substantially as follows:

### THE INTERSTATE COMPACT FOR JUVENILES

#### ARTICLE I

#### PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:  
(A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the

sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of the compacting states; (G) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Bylaws" means: those bylaws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

- (1) Accused Delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;
- (2) Adjudicated Delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
- (3) Accused Status Offender - a person charged with an offense that would not be a criminal offense if committed by an adult;
- (4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
- (5) Non-offender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Non-compacting state" means: any state which has not enacted the enabling legislation for this compact.

J. "Probation or parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means: a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

## ARTICLE III

### INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All noncommissioner members of the Interstate Commission shall be ex-officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional ex-officio (nonvoting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the bylaws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing any person of a crime, or formally censuring any person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes;
7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe

all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

## ARTICLE IV

### POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.
2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.
4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.
5. To establish and maintain offices which shall be located within one or more of the compacting states.
6. To purchase and maintain insurance and bonds.
7. To borrow, accept, hire or contract for services of personnel.
8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.
10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.
12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.
13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.
14. To sue and be sued.

15. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.
19. To establish uniform standards of the reporting, collecting and exchanging of data.
20. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

## ARTICLE V

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

#### Section A. Bylaws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
  - a. Establishing the fiscal year of the Interstate Commission;
  - b. Establishing an executive committee and such other committees as may be necessary;
  - c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;
  - d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
  - e. Establishing the titles and responsibilities of the officers of the Interstate Commission;
  - f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;
  - g. Providing start-up rules for initial administration of the compact; and
  - h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

#### Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.
2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for

such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

### Section C. Qualified Immunity, Defense and Indemnification

1. The commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE VI

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;

2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;
3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and
4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

## ARTICLE VII

### OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

#### BY THE INTERSTATE COMMISSION

##### Section A. Oversight

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.
2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

##### Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its bylaws and rules.
2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or

other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

## ARTICLE VIII

### FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## ARTICLE IX

### THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

## ARTICLE X

### COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the

35th jurisdiction. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

## ARTICLE XI

### WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

#### Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
2. The effective date of withdrawal is the effective date of the repeal.
3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.
4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

#### Section B. Technical Assistance, Fines, Suspension, Termination and Default

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the bylaws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:
  - a. Remedial training and technical assistance as directed by the Interstate Commission;
  - b. Alternative Dispute Resolution;
  - c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and
  - d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the bylaws, or duly promulgated rules and any other grounds designated in commission bylaws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The

commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the commission shall notify the Governor, the Chief Justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.
3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

#### Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

#### Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the bylaws.

### ARTICLE XII

#### SEVERABILITY AND CONSTRUCTION

- A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- B. The provisions of this compact shall be liberally construed to effectuate its purposes.

### ARTICLE XIII

#### BINDING EFFECT OF COMPACT AND OTHER LAWS

##### Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
2. All compacting states' laws other than state constitutions and other interstate compacts conflicting with this

compact are superseded to the extent of the conflict.

#### Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.
2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.
3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.
4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

(L. 1955 p. 675 § 1, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.580

#### **Compact binding, when.**

210.580. The compact shall become binding upon the state of Missouri upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of August 28, 2007, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(L. 1955 p. 675 § 2, A.L. 2007 S.B. 84)

#### **Courts and agencies to cooperate to promote purposes of compact.**

210.590. All courts, departments of the state and its political subdivisions, police and law enforcement agencies and other proper officers of the state and its political subdivisions shall cooperate with the compact administration and shall do all things appropriate to effect the purposes and intent of the compact which rightfully fall within their respective jurisdictions.

(L. 1955 p. 675 § 3a)

#### **Compact enacted, text of compact.**

210.620. The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in form substantially as follows:

##### ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

- A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.
- B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.
- C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.
- D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.
- E. Provide for uniform data collection and information sharing between member states under this compact.
- F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.
- G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.
- H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

## ARTICLE II. DEFINITIONS

As used in this compact,

- A. "Approved placement" means the receiving state has determined after an assessment that the placement is both safe and suitable for the child and is in compliance with the applicable laws of the receiving state governing the placement of children therein.
- B. "Assessment" means an evaluation of a prospective placement to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional and physical development.
- C. "Child" means an individual who has not attained the age of eighteen (18).
- D. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.
- E. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 USC § 1602(c).
- F. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.
- G. "Jurisdiction" means the power and authority of a court to hear and decide matters.
- H. "Member state" means a state that has enacted this compact.
- I. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

J. "Nonmember state" means a state which has not enacted this compact.

K. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

L. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

M. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

N. "Provisional placement" means that the receiving state has determined that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

O. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

P. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

Q. "Relative" means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

R. "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities.

S. "Rule" means a written directive, mandate, standard or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. Rule has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

T. "Sending state" means the state from which the placement of a child is initiated.

U. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

V. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

W. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

X. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

Y. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

### ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

2. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

3. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

4. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

5. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

6. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

7. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

#### ARTICLE IV. JURISDICTION

A. The sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or
2. The child is adopted; or
3. The child reaches the age of majority under the laws of the sending state; or
4. The child achieves legal independence pursuant to the laws of the sending state; or
5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or
6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or
7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

D. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

F. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

#### ARTICLE V. ASSESSMENTS

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. Prior to the sending, bringing, or causing a child to be sent or brought into a receiving state, the private child-placing agency shall:

1. Provide evidence that the applicable laws of the sending state have been complied with; and
2. Certification that the consent or relinquishment is in compliance with applicable law of the birth parent's state of residence or, where permitted, the laws of the state of where the finalization of the adoption will occur; and
3. Request through the public child-placing agency in the sending state an assessment to be conducted in the receiving state; and
4. Upon completion of the assessment, obtain the approval of the public child-placing agency in the receiving state.

C. The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

D. Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.

E. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

F. The public child-placing agency in the receiving state shall complete or arrange for the completion of the assessment within the time frames established by the rules of the Interstate Commission.

G. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

#### ARTICLE VI. PLACEMENT AUTHORITY

A. Except as provided in Article VI, Section C, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.
2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

#### ARTICLE VII. STATE RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:
  - a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise

provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. A private child-placing agency shall be responsible for any assessment conducted in the receiving state and any supervision conducted by the receiving state at the level required by the laws of the receiving state or the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

E. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

F. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

G. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

H. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

I. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901, et seq.) for placements subject to the provisions of this compact, prior to placement.

J. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

## ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF

## CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

#### ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as

required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

## ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE

### COMMISSION

#### A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

#### B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

- d. involve accusing a person of a crime, or formally censuring a person; or
  - e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or
  - f. disclose investigative records compiled for law enforcement purposes; or
  - g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.
3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.
4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

#### C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.
2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

#### D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.
- a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.
  - b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and
2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and
3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of statutory law and shall supersede any state law, rule or regulation to the extent of any conflict.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules
2. Forms and procedures
3. Time lines

4. Data collection and reporting

5. Rulemaking

6. Visitation

7. Progress reports/supervision

8. Sharing of information/confidentiality

9. Financing of the Interstate Commission

10. Mediation, arbitration and dispute resolution

11. Education, training and technical assistance

12. Enforcement

13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

## ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

### A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall supercede state law, rules or regulations to the extent of any conflict therewith.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

## B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.
2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

## C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:
  - a. Provide remedial training and specific technical assistance; or
  - b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or
  - c. By majority vote of the members, initiate against a defaulting member state legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or
  - d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

## ARTICLE XIII. FINANCING OF THE COMMISSION

- A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
- B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.
- C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

## ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- A. Any state is eligible to become a member state.
- B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by

the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

## ARTICLE XV. WITHDRAWAL AND DISSOLUTION

### A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.
2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.
3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.
4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.
5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

### B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

## ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

- A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- B. The provisions of this compact shall be liberally construed to effectuate its purposes.
- C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members

## ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

### A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact or its rules are superseded to the extent of the conflict.

#### B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

#### ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

(L. 1975 S.B. 162 § 1, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.650

#### **Emergency placement of abused or neglected children across state lines, approval required, when.**

210.622. Notwithstanding the provisions of section 210.620, the children's division may enter into an agreement with a similar agency in any state adjoining Missouri that provides for the emergency placement of abused or neglected children across state lines, without the prior approval required by the interstate compact. A request for approval pursuant to section 210.620 shall be initiated if the placement extends beyond thirty days.

(L. 1985 H.B. 711, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.620

#### **Financial responsibility for child, how fixed.**

210.625. The financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article VII thereof, in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of state laws fixing responsibility for the support of children also may be invoked.

(L. 1975 S.B. 162 § 2, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.650

#### **Placement authority of courts, retention of jurisdiction.**

210.635. Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article III of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article IV thereof.

(L. 1975 S.B. 162 § 5, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.650

### **Placements from nonparty states, procedure for.**

210.640. No placement made into this state from a jurisdiction not party to the Interstate Compact on the Placement of Children shall be lawful unless the person or agency making the placement complies with and follows the procedures and requirements of that compact as though the state or jurisdiction from which the child is sent or brought were party thereto. This section shall not apply to any placement which would not be subject to the terms of the Interstate Compact on the Placement of Children if both this state and the other state or jurisdiction from which the child is sent or brought were parties thereto.

(L. 1975 S.B. 162 § 7, A.L. 2007 S.B. 84)

Contingent effective date, see § 210.650

### **Contingent effective date.**

210.650. The repeal and reenactment of sections 210.620, 210.622, 210.625, 210.635, and 210.640 of section A of this act\*, and the repeal of sections 210.630 and 210.700 of section A of this act\* shall become effective August 28, 2007, or upon legislative enactment of the compact into law by no less than thirty-five states, whichever later occurs.

(L. 2007 S.B. 84 § B)

\*This "act" (S.B. 84, 2007) contained numerous sections. Consult Disposition of Sections Table for a definitive listing.

### **Child committed to care of authorized agency--written report of status required for court review, when--dispositional hearing, when, purpose--child not returned home, when.**

210.710. 1. In the case of a child who has been committed to the care of an authorized agency by a parent, guardian or relative and where such child has remained in the care of one or more authorized agencies for a continuous period of six months, the agency shall petition the juvenile court in the county where the child is present to review the status of the child. A written report on the status of the child shall be presented to the court. The court shall then review the status of the child and may hold a dispositional hearing thereon. The purpose of the dispositional hearing shall be to determine whether or not the child should be continued in foster care or whether the child should be returned to a parent, guardian or relative, or whether or not proceedings should be instituted to terminate parental right and legally free such child for adoption.

2. If the child is in the care of an authorized agency based on an allegation that the child has abused another child and the court determines that such abuse occurred, the court shall not return the child to or permit the child to reside in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings.

**Court-ordered custody--written report of status required for court review, when--permanency hearing when, purpose.**

210.720. 1. In the case of a child who has been placed in the custody of the division of family services in accordance with subdivision (17) of subsection 1 of section 207.020, RSMo, or another authorized agency by a court or who has been placed in foster care by a court, every six months after the placement, the foster family, group home, agency, or child care institution with which the child is placed shall file with the court a written report on the status of the child. The court shall review the report and shall hold a permanency hearing within twelve months of initial placement and at least annually thereafter. The permanency hearing shall be for the purpose of determining in accordance with the best interests of the child a permanent plan for the placement of the child, including whether or not the child should be continued in foster care or whether the child should be returned to a parent, guardian or relative, or whether or not proceedings should be instituted by either the juvenile officer or the division to terminate parental rights and legally free such child for adoption.

2. In such permanency hearings the court shall consider all relevant factors including:

(1) The interaction and interrelationship of the child with the child's foster parents, parents, siblings, and any other person who may significantly affect the child's best interests;

(2) The child's adjustment to his or her foster home, school and community;

(3) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the child is in the care of an authorized agency based on an allegation that the child has abused another child and the court determines that such abuse occurred, the court shall not return the child to or permit the child to reside in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings; and

(4) The needs of the child for a continuing relationship with the child's parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child.

3. The judge shall make written findings of fact and conclusions of law in any order pertaining to the placement of the child.

**Court to have continuing jurisdiction for certain proceedings --duties to review children under continued foster care, when--goals.**

210.730. The court shall possess continuing jurisdiction in proceedings under sections 210.700 to 210.760 and, in the case of children who are continued under foster care, shall review the status of the child whenever it deems necessary or desirable, but at least once every six months. It shall be the goal of the court and the authorized agency in whose custody a child has been placed, that the percentage of children who are in foster care in excess of twenty-four months shall not exceed thirty percent in any fiscal year.

## **Placement in foster care--division's duties--removal of children from school, restrictions.**

210.760. 1. In making placements in foster care the children's division shall:

- (1) Arrange for a preplacement visit of the child, except in emergencies;
- (2) Provide full and accurate medical information and medical history to the persons providing foster care at the time of placement;
- (3) Give a minimum of five days advance notice to the persons providing foster care before removing a child from their care;
- (4) Provide the persons giving foster care with a written statement of the reasons for removing a child at the time of the notification required by this section;
- (5) Notify the child's parent or legal guardian that the child has been placed in foster care; and
- (6) Work with the parent or legal guardian of the child, through services available, in an effort to return the child to his or her natural home, if at all possible, or to place the child in a permanent adoptive setting, in accordance with the division's goals to reduce the number of children in long-term foster care and reestablish and encourage the family unit.

2. Except as otherwise provided in section 210.125, no child shall be removed from school prior to the end of the official school day for that child for placement in foster care without a court order specifying that the child shall be removed from school.

(L. 1982 H.B. 1171, et al., A.L. 2004 H.B. 1453 merged with S.B. 762)

## **Right to testify at foster care hearings, qualifications, limitation.**

210.761. Any person who has provided foster care to a child at any time in a two-year period prior to any hearing concerning the child conducted pursuant to the provisions of sections 210.700 to 210.760, shall be allowed to\* testify at such hearing. The court may limit such testimony to evidence the court finds relevant and material.

(L. 1995 S.B. 460 § 2)

\*Word "to" does not appear in original rolls.

## **Family support team meetings to be held, when--who may attend--form to be used.**

210.762. 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a family support team meeting prior to or within twenty-four hours following the protective custody hearing held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional family support team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a family support team meeting within seventy-two hours. The requirement for a family support team meeting shall not apply when the parent has consented in writing to the termination of his or her parental rights in conjunction with a placement in a licensed child-placing agency under subsection 6 of section 453.010, RSMo.

2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all family support team meetings. The family support team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The case manager shall be responsible for including such form with the case records of the child.

(L. 2004 H.B. 1453 merged with S.B. 762, A.L. 2007 S.B. 84)

### **Certain case records available for review by parents or guardians.**

210.764. Except as provided in section 210.150, the case records of a child in protective custody compiled by the children's division shall be available for review by the parent or legal guardian of the child.

(L. 2004 S.B. 762)

### **Definitions.**

210.817. As used in sections 210.817 to 210.852, the following terms mean:

(1) "Blood tests", any medically recognized analysis which uses blood or other body tissue or fluid to isolate and identify genetic or other characteristics in order to determine the probability of paternity or the probability of exclusion of paternity. The term specifically includes, without being limited to, tests employing red cell antigens, white cell antigens, including the human leukocyte antigen (HLA) test, DNA methodology, and serum proteins and enzymes;

(2) "Bureau", the bureau of vital records of the department of health and senior services;

(3) "Parent", either a natural or an adoptive parent;

(4) "Parent and child relationship", the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

(L. 1987 S.B. 328 § 1, A.L. 1993 S.B. 253)

### **Relationship not dependent on marriage.**

210.818. The parent and child relationship extends equally to every child and every parent, regardless of the marital status of the parents.

(L. 1987 S.B. 328 § 2)

## **Parent and child relationship, how established.**

210.819. The parent and child relationship between child and:

- (1) The natural mother may be established by proof of her having given birth to the child, or under the provisions of sections 210.817 to 210.852;
- (2) The natural father may be established under the provisions of sections 210.817 to 210.852;
- (3) An adoptive parent may be established by proof of adoption.

(L. 1987 S.B. 328 § 3)

Effective 7-15-87

## **Presumption of paternity--rebuttal of presumption, standard of proof.**

210.822. 1. A man shall be presumed to be the natural father of a child if:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or dissolution, or after a decree of separation is entered by a court; or
- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with the law, although the attempted marriage is or may be declared invalid, and:
  - (a) If the attempted marriage may be declared invalid only by a court, the child is born during the attempted marriage or within three hundred days after its termination by death, annulment, declaration of invalidity or dissolution; or
  - (b) If the marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation; or
- (3) After the child's birth, he and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the marriage is or may be declared invalid, and:
  - (a) He has acknowledged his paternity of the child in writing filed with the bureau; or
  - (b) With his consent, he is named as the child's father on the child's birth certificate; or
  - (c) He is obligated to support the child pursuant to a written voluntary promise or by court order; or
- (4) An expert concludes that the blood tests show that the alleged parent is not excluded and that the probability of paternity is ninety-eight percent or higher, using a prior probability of 0.5.

2. A presumption pursuant to this section may be rebutted in an appropriate action only by clear and convincing evidence, except that a presumption under subsection 1 of this section that arises from a blood test or the filing of an acknowledgment of paternity in a state or territory in which the blood test or the filing creates a conclusive presumption by law also has conclusive effect in Missouri. If two or more presumptions arise which conflict with

each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing the paternity of the child by another man.

(L. 1987 S.B. 328 § 4, A.L. 1994 H.B. 1491 & 1134 merged with S.B. 508, A.L. 1997 S.B. 361, A.L. 1998 S.B. 910)

### **Acknowledgment of paternity is considered a legal finding of paternity--rescinding the acknowledgment.**

210.823. 1. A signed acknowledgment of paternity form pursuant to section 193.215, RSMo, shall be considered a legal finding of paternity subject to the right of either signatory to rescind the acknowledgment, in writing, by filing such rescission with the bureau within the earlier of:

(1) Sixty days from the date of the last signature; or

(2) The date of an administrative or judicial proceeding to establish a support order in which the signatory is a party. The acknowledgment may thereafter only be challenged in court on the basis of fraud, duress or material mistake of fact with the burden of proof upon the challenger. No judicial or administrative proceeding shall be required or permitted to ratify an unchallenged acknowledgment of paternity.

2. Except for good cause shown, the legal responsibilities of the parties, including child support obligations, shall not be suspended during the pendency of any action in which an attempt is made to revoke the signed acknowledgment under this section.

3. The acknowledgment shall be filed with the bureau. An acknowledgment effectuated under the law of any other state or territory shall be given the same effect in this state as it has in the other state or territory.

(L. 1997 S.B. 361)

Effective 7-1-97

### **Artificial insemination, consent required, duties of physician, effect of physician's failure to comply with law--inspection of records permitted, when.**

210.824. 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the bureau, where it shall be kept confidential and in a sealed file. The physician's failure to comply with this section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

(L. 1987 S.B. 328 § 5)

Effective 7-15-87

### **Determination of father and child relationship, who may bring action, when action may**

## **be brought.**

210.826. 1. A child, his natural mother, a man presumed to be his father under subsection 1 of section 210.822, a man alleging himself to be a father, any person having physical or legal custody of a child for a period of more than sixty days or the division of child support enforcement may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship presumed under subsection 1 of section 210.822.

2. An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under section 210.822 may be brought by the child, the mother or the person who has legal custody of the child, any person having physical or legal custody of a child for a period of more than sixty days, the division of child support enforcement, the personal representative or a parent of the mother if the mother has died, a man alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

3. Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with subsection 2 of section 210.838, between an alleged or presumed father and the mother or child, does not bar an action under this section.

4. If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

(L. 1987 S.B. 328 § 6, A.L. 1993 S.B. 253, A.L. 1998 S.B. 910)

## **Statute of limitations, exception.**

210.828. 1. An action to determine the existence of the father and child relationship as to a child who has no presumed father under section 210.822 may not be brought later than eighteen years after the birth of the child, except that an action to determine the existence of the father and child relationship as to a child who has no presumed father under the provisions of section 210.822 may be brought by the child within three years after such child attains the age of eighteen.

2. A parent's retroactive liability to another party for reimbursement of necessary support provided by that party to the child for whom a parent and child relationship is established under sections 210.817 to 210.852 is limited to a period of five years next preceding the commencement of the action.

3. Sections 210.826 and 210.828 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

(L. 1987 S.B. 328 § 7, A.L. 1993 S.B. 253)

(1996) Illegitimate child may prove paternity during probate pursuant to section 473.070 even if this statute of limitations has run. In the Matter of Carl Nocita, 914 S.W.2d 358 (Mo.banc).

## **Jurisdiction, venue, severance--effect of failure to join action for necessities.**

210.829. 1. The circuit court has jurisdiction of an action brought under sections 210.817 to 210.852. The action may be joined by separate document with an action for dissolution of marriage, annulment, separate maintenance, support, custody or visitation, except that in any action instituted at the request of the division of child support enforcement by a prosecuting or circuit attorney or attorney under contract with such division, if an action for

dissolution, annulment, separate maintenance, custody or visitation is joined hereunder, it shall be severed upon request. Failure to join an action for reimbursement of necessities provided with an action brought under sections 210.817 to 210.852 shall not be a bar to subsequently bringing such an action for reimbursement of necessities provided.

2. A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state to an action brought under sections 210.817 to 210.852 with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by rule or statute, including sections 506.160 and 506.510, RSMo, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt.

3. Notwithstanding subsection 2 of this section, personal jurisdiction may be asserted over any person if there is any basis consistent with the constitution of this state or the United States.

4. An action brought under sections 210.817 to 210.852 may be brought in the county in which the child resides, the mother resides, or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

(L. 1987 S.B. 328 § 8, A.L. 1993 S.B. 253, A.L. 1994 H.B. 1491 & 1134 merged with S.B. 508)

Effective 7-1-94

### **Parties--guardian ad litem, when appointed.**

210.830. The child shall be made a party to any action commenced under sections 210.817 to 210.852. If he is a minor, he may be represented by a next friend appointed for him for any such action. The child's mother or father or the division of child support enforcement or any person having physical or legal custody of the child may represent him as his next friend. A guardian ad litem shall be appointed for the child only if child abuse or neglect is alleged, or if the child is named as a defendant, or if the court determines that the interests of the child and his next friend are in conflict. The natural mother, each man presumed to be the father under section 210.822, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

(L. 1987 S.B. 328 § 9, A.L. 1993 S.B. 253, A.L. 1998 S.B. 910)

### **Pretrial proceedings, informal hearing before master--testimony of party may be compelled, when--physician testimony not privileged, when --bond required when, amount--temporary support order issued, when.**

210.832. 1. As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has been brought, the court may order that an informal hearing be held before a master. The public shall be barred from the hearing. A record of the proceeding or any portion of a proceeding shall be kept if any party requests or the court orders. Rules of evidence need not be observed.

2. Upon the refusal of any witness, including a party, to testify under oath or produce evidence, the court may order such witness to testify under oath and produce evidence concerning all relevant facts. If the refusal is on the ground that the witness' testimony or evidence might tend to incriminate the witness, the court may order that such testimony or evidence is inadmissible in any criminal action against the witness. If the court enters such order, the refusal of a witness to obey an order to testify or produce evidence is civil contempt of court.

3. Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

4. Upon motion of a party, the court may require a presumed father to post bond with the court in an amount sufficient to guarantee payment of support for the period between the date the action is commenced and the expected date of final disposition of the action. In determining the amount of bond, the court shall consider the factors set forth in subsection 5 of section 210.841.

5. Upon motion of a party, the court shall enter a temporary support order requiring the provision of child support pending the final determination of parentage if there is clear and convincing evidence establishing a presumption of paternity under section 210.822 or an acknowledgment pursuant to section 210.823. In determining the amount of such child support, the court shall comply with subsection 5 of section 210.841. The order shall be retroactive to the later of the date of service of the motion or the date that any presumption pursuant to section 210.822 or an acknowledgment pursuant to section 210.823 first arose.

(L. 1987 S.B. 328 § 10, A.L. 1997 S.B. 361)

Effective 7-1-97

### **Blood tests--expert defined.**

210.834. 1. The court may, and upon request of any party shall require the child, mother, alleged father, any presumed father who is a party to the action, and any male witness who testifies or shall testify about his sexual relations with the mother at the possible time of conception, to submit to blood tests. The tests shall be performed by an expert as defined in subsection 7 of this section.

2. The court, upon reasonable request by a party, may order that independent tests be performed by other experts as defined in this section.

3. If any party refuses to submit to blood tests ordered by the court pursuant to subsection 1 or 2 of this section, such refusal shall constitute civil contempt of court and shall be admissible as evidence in the action. In addition, upon motion and reasonable notice to the party refusing to submit to blood tests, the court shall, except for good cause shown, enter an order striking the party's pleadings and rendering a judgment by default on the issue of the existence of the parent-and-child relationship.

4. Whenever the court finds that the results of the blood tests show that a person presumed or alleged to be the father of the child is not the father of such child, such evidence shall be conclusive of nonpaternity and the court shall dismiss the action as to that party, and the cost of such blood tests shall be assessed against the party instituting the action unless the division of child support enforcement, through a prosecuting attorney or circuit attorney or other attorney under contract with such division, is a party to such action, in which case the cost of such blood tests shall be assessed against the state. The court shall order the state to pay reasonable attorney's fees for counsel and the costs of any blood tests where such blood tests show that the person presumed or alleged to be the father of the child is not the father of such child and the state proceeds further in an action pursuant to sections 210.817 to 210.852 to attempt to establish that such person is the father of the child.

5. Certified documentation of the chain of custody of the blood or tissue specimens is competent evidence to establish such chain of custody. An expert's report shall be admitted at trial as evidence of the test results stated therein without the need for foundation testimony or other proof of authenticity or accuracy, unless a written motion containing specific factual allegations challenging the testing procedures, the chain of custody of the blood or tissue specimens, or the results has been filed and served on each party, and the motion is sustained by the court or an administrative agency not less than thirty days before the trial.

6. The provisions of subsection 5 of this section shall also apply when the blood tests were not ordered by the

court, if the court finds that the tests were conducted by an expert as defined in subsection 7 of this section.

7. As used in sections 210.817 to 210.852, the term "expert" shall include, but not be limited to, a person who performs or analyzes a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. 666(a) and performed by a laboratory approved by such accreditation bodies.

(L. 1987 S.B. 328 § 11, A.L. 1994 H.B. 1491 & 1134, A.L. 1997 S.B. 361)

Effective 7-1-97

(1989) Where statute and supreme court rule are inconsistent, statutory provisions providing for the taking of blood tests by court-designated experts and specifying the weight to be accorded blood test results in paternity proceedings related to more than just matters of practice, procedure and pleading and statute is not subservient to supreme court rule. State ex rel. Newton v. Conklin, 767 S.W.2d 112 (Mo. App. S.D.).

## **Evidence relating to paternity.**

210.836. Evidence relating to paternity may include:

- (1) Evidence of sexual intercourse between the mother and the alleged father during the possible time of conception of the child;
- (2) An expert's opinion concerning the probability of the alleged father's paternity of the child based upon the duration of the mother's pregnancy;
- (3) Blood test results, weighed in accordance with the evidence of the statistical probability of the alleged father's paternity of the child;
- (4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts; and
- (5) All other evidence relevant to the issue of the paternity of the child.

(L. 1987 S.B. 328 § 12)

Effective 7-15-87

## **Pretrial recommendation--actions, effect of party's refusal to accept.**

210.838. 1. If a pretrial hearing is conducted under section 210.832, the master conducting the hearing shall, on the basis of the information at the pretrial hearing, evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interests of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include either of the following:

- (1) That the action be dismissed with or without prejudice; or
- (2) That the alleged father voluntarily acknowledge his paternity of the child.

2. If the parties accept a recommendation made in accordance with subsection 1 of this section, judgment shall be entered accordingly.

3. If a party refuses to accept a recommendation made under subsection 1 of this section, and blood tests have not been taken, the court shall require the parties to submit to blood tests, if practicable. Thereafter, the master shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

4. The guardian ad litem may accept or refuse to accept a recommendation under this section.

5. The informal hearing may be terminated and the action set for trial if the master conducting the hearing finds it unlikely that all parties would accept a recommendation he might make under subsection 1 or 3 of this section.

(L. 1987 S.B. 328 § 13)

Effective 7-15-87

### **Civil action, procedure--admissibility of evidence, parties --default judgment may be entered, when.**

210.839. 1. An action filed pursuant to sections 210.817 to 210.852 is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Subsections 2 and 3 of section 210.832 and sections 210.834 and 210.836 apply.

2. Testimony relating to sexual access to the mother at a time other than the probable period of conception of the child is inadmissible in evidence.

3. In an action against an alleged or presumed father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable period of conception of the child is admissible in evidence only if he has undergone and made available to the court the results of blood tests which do not exclude the possibility of his paternity of the child. A man who is identified and subject to the jurisdiction of the court shall be made a defendant in the action not less than sixty days prior to trial by the party identifying him. Where such man is not subject to the jurisdiction of the court, the alleged or presumed father shall provide all other parties with the name and address of the man at least thirty days prior to trial. If a male witness is produced at trial for the purpose stated in this subsection, but the party calling the witness failed to implead such male witness as a party defendant or provide the notice required to all other parties, the court may adjourn the proceeding to take a blood test of the witness prior to receiving his testimony, if the court finds that the party calling the witness acted in good faith. If the court determines that the party calling the witness did not act in good faith as to the required notice, the court shall not grant a continuance, and such witness shall be incompetent to testify.

4. No party shall have a right to trial by jury. Unless a presumption applies pursuant to section 210.822, the burden of proof on all issues shall be preponderance of the evidence.

5. If any party fails to file an answer or otherwise appear in response to an action commenced pursuant to sections 210.817 to 210.852 within the time prescribed by law or rules of practice of the court, the court shall enter judgment against such party by default.

6. Copies of any paid or unpaid bill for pregnancy, childbirth or genetic testing shall be admitted as evidence without requiring third-party foundation testimony if such copies have been provided to all parties not less than seven days prior to trial. Such copies shall constitute prima facie evidence of the amounts incurred for such services or testing.

(L. 1987 S.B. 328 § 14, A.L. 1993 S.B. 253, A.L. 1997 S.B. 361)

Effective 7-1-97

## **Judgment or order, contents--amount of support, presumption.**

210.841. 1. The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

2. If the judgment or order of the court varies with the child's birth certificate, the court shall order that an amended birth registration be made pursuant to section 210.849.

3. The judgment or order shall contain the Social Security number of each party and may contain any other provision directed against the appropriate party to the proceeding concerning:

- (1) The duty of support;
- (2) The custody and guardianship of the child;
- (3) Visitation privileges with the child;
- (4) The furnishing of bond or other security for the payment of the judgment; or
- (5) Any matter in the best interest of the child.

The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

4. Support judgments or orders ordinarily shall be for periodic payments. In the best interests of the child, a lump sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

5. There shall be a rebuttable presumption that the amount of support that would result from the application of supreme court rule 88.01 is the correct amount of child support to be awarded. A written finding or specific finding on the record that the application of supreme court rule 88.01 would be unjust or inappropriate in a particular case, after considering all relevant factors including the factors in subsection 6 of this section, shall be sufficient to rebut the presumption in the case.

6. In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including:

- (1) The needs of the child;
- (2) The standard of living and circumstances of the parents;
- (3) The relative financial means of the parents;
- (4) The earning ability of the parents;
- (5) The need and capacity of the child for education, including higher education;
- (6) The age of the child;
- (7) The financial resources and earning capacity of the child;

(8) The responsibility of the parents for the support of other children;

(9) The value of the services contributed by the custodial parent; and

(10) The standard of living and circumstances of the family prior to the dissolution of marriage of parents or during the period of cohabitation of the parents.

7. Any award for periodic child support may be retroactive to the date of service of the original petition upon the obligor.

(L. 1987 S.B. 328 § 15, A.L. 1993 S.B. 253, A.L. 1997 S.B. 361)

Effective 7-1-97

(2002) Parent may seek child support order without first filing for dissolution, annulment, separate maintenance, custody, or visitation. State ex rel. Division of Family Services v. Summerford, 75 S.W.3d 353 (Mo.App.W.D.).

## **Costs.**

210.842. The court may enter judgment in the amount of the reasonable fees for counsel, experts, the child's guardian ad litem and other costs of the action and pretrial proceedings, including blood tests, to be paid by the parties in such proportions and at such times as determined by the court, except that:

(1) No fees or costs shall be assessed to an indigent party as a condition precedent to blood tests; and

(2) No such costs, other than the costs of blood tests and any other fees or charges assessed pursuant to subsection 4 of section 210.834, shall be assessed to the state of Missouri or a political subdivision thereof.

(L. 1987 S.B. 328 § 16, A.L. 1996 S.B. 869, A.L. 1997 S.B. 361)

Effective 7-1-97

## **Enforcement of judgment or order--payments to be made to circuit clerk or family support payment center--failure to comply, civil contempt.**

210.843. 1. If the existence of a parent and child relationship is declared, and a duty of support has been established pursuant to sections 210.817 to 210.852, the support obligation may be enforced in the same or in other appropriate proceedings by the mother, the child, the division of child support enforcement, or any other public agency that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

2. The court shall order that support payments be made to the clerk of the circuit court as trustee for remittance to the person entitled to receive the payments, or where that person has assigned his or her support rights to the division of family services pursuant to section 208.040, RSMo, as trustee for remittance to the division, as long as the trusteeship remains in effect. Effective October 1, 1999, the court shall order support payments to be made to the family support payment center as required in section 454.530, RSMo, as trustee for remittance to the person entitled to receive the payments.

3. Willful failure to obey any judgment or order of the court entered pursuant to this section is a civil contempt of court. Section 452.350, RSMo, applies to support orders entered pursuant to this section, and all administrative and judicial remedies for the enforcements of judgments shall apply.

(L. 1987 S.B. 328 § 17, A.L. 1999 S.B. 291)

Effective 7-1-99

### **Applicability of certain statutes.**

210.844. In a proceeding to determine the existence of the parent and child relationship brought pursuant to the provisions of sections 454.010 to 454.360, RSMo, or pursuant to the provisions of sections 454.850 to 454.997, RSMo, the provisions of sections 210.817, 210.822 and 210.834 shall apply, but no other provisions of sections 210.818 through 210.852 shall apply.

(L. 1998 S.B. 910)

### **Modification of decree, when--procedure, burden.**

210.845. 1. The provisions of any decree respecting support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modifications of any child support award, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in supreme court rule 88.01.

(L. 1987 S.B. 328 § 18, A.L. 1993 S.B. 253)

### **Hearings and records, confidentiality--inspection allowed, when.**

210.846. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 210.817 to 210.852 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the interlocutory or final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court, are subject to inspection only by the prosecuting or circuit attorney or attorney under contract with the division of child support enforcement or upon the consent of the court and all interested persons, or in exceptional cases only upon order of the court for good cause shown.

(L. 1987 S.B. 328 § 19, A.L. 1993 S.B. 253)

### **Grandparents liable for support payments for grandchildren, when--amount of support, relevant factors.**

210.847. 1. In any action to determine child support needs and obligations for a child whose alleged father is less than eighteen years old, the parents of the alleged father and the parents of the mother, if the mother is also less

than eighteen years old, shall be made joint parties and may be jointly liable for the support ordered by the court to the child until both the father and the mother reach the age of eighteen years. The court shall, based on the needs of the child, determine the amount of child support, including in-kind support being provided, to be paid by the alleged father who is under eighteen years of age and the amount of such payment which shall be paid by the parents of the alleged father, which shall not exceed the amount of the standard of need of the state's public assistance plan for one person. The court shall, based on the needs of the child, determine the amount of child support, including in-kind support being provided, to be paid by the mother who is under eighteen years of age and the amount of such payment which shall be paid by the parents of the mother, which shall not exceed the amount of the standard of need of the state's public assistance plan for one person.

2. The amount of the support payments to be paid pursuant to this section shall be determined pursuant to the provisions of section 210.841, except that in determining the amount to be paid by a father or mother less than eighteen years old or parent of such father or mother, the court shall also consider the following relevant facts:

(1) The standard of living and circumstances of the parents of the father less than eighteen years of age and the parents of the mother less than eighteen years of age;

(2) The relative financial means of the parents of the father less than eighteen years of age and the parents of the mother less than eighteen years of age; and

(3) The responsibility of the parents of the father less than eighteen years of age and the parents of the mother less than eighteen years of age for the support of other children.

3. The provisions of Missouri supreme court rule 88.01 shall not apply when a court determines the support obligation owed by the parents of a teen parent under eighteen years of age, pursuant to this section.

(L. 1994 H.B. 1547 & 961)

### **Action to declare mother and child relationship.**

210.848. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as possible, the provisions of sections 210.817 to 210.852 applicable to the father and child relationship apply to the mother and child relationship.

(L. 1987 S.B. 328 § 20)

Effective 7-15-87

### **Birth records.**

210.849. Upon order of a court of this state or upon request of a court or authorized administrative agency of another state, the bureau shall prepare an amended birth certificate consistent with the findings of the court.

(L. 1987 S.B. 328 § 21)

Effective 7-15-87

### **Uniformity of application and construction.**

210.850. The provisions of sections 210.817 to 210.852 shall be applied and construed to effectuate its general

purpose to make uniform the law with respect to the subject of sections 210.817 to 210.852 among the states enacting it.

(L. 1987 S.B. 328 § 22)

Effective 7-15-87

### **Citation of law.**

210.851. Sections 210.817 to 210.852 may be cited as the "Uniform Parentage Act".

(L. 1987 S.B. 328 § 23)

Effective 7-15-87

### **Application to actions commenced prior to effective date.**

210.852. Unless agreed to by the parties and the court, the provisions of sections 210.817 to 210.852 shall not apply to proceedings to determine paternity commenced prior to July 15, 1987.

(L. 1987 S.B. 328 § 24)

Effective 7-15-87

### **Parenting plan in paternity actions.**

210.853. Upon a finding of paternity by a court, the parties to a paternity action may submit, either separately or jointly, a parenting plan, as defined in section 452.310, RSMo, regarding the child who is the subject of such paternity action. If a parenting plan is submitted, the court shall order a parenting plan for such child. If the court does not have proper jurisdiction, the court shall transfer the case to an appropriate court having jurisdiction on the matter.

(L. 1999 S.B. 1, et al. § 2)

### **Tax levy, amount, purposes--ballot--deposit of funds in special community children's services fund.**

210.860. 1. The governing body of any county or city not within a county may, after voter approval pursuant to this section, levy a tax not to exceed twenty-five cents on each one hundred dollars of assessed valuation on taxable property in the county for the purpose of providing counseling, family support, and temporary residential services to persons eighteen years of age or less and those services described in section 210.861. The question shall be submitted to the qualified voters of the county or city not within a county at a county or state general, primary or special election upon the motion of the governing body of the county or city not within a county or upon the petition of eight percent of the qualified voters of the county determined on the basis of the number of votes cast for governor in such county or city not within a county at the last gubernatorial election held prior to the filing of the petition. The election officials of the county or city not within a county shall give legal notice as provided in chapter 115, RSMo. The question shall be submitted in substantially the following form:

Shall ..... County (City) be authorized to levy a tax of ..... cents on each one hundred dollars of assessed valuation on taxable property in the county (city) for the purpose of establishing a community children's services fund for purposes of providing funds for counseling and related services to children and youth in the county (city) eighteen years of age or less and services which will promote healthy lifestyles among children and youth and strengthen families?

YES  NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall be levied and collected as otherwise provided by law. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not be levied unless and until the question is again submitted to the qualified voters of the county or city not within a county and a majority of such voters are in favor of such a tax, and not otherwise.

2. All revenues generated by the tax prescribed in this section shall be deposited in the county treasury or, in a city not within a county, to the board established by law to administer such fund to the credit of a special "Community Children's Services Fund" to accomplish the purposes set out herein and shall be used for no other purpose. Such fund shall be administered by and expended only upon approval by a board of directors, established pursuant to section 210.861.

(L. 1993 S.B. 253 § 24, A.L. 1994 S.B. 595, A.L. 2005 H.B. 58 merged with H.B. 186 merged with S.B. 210 merged with S.B. 238)

### **Board of directors, term, expenses, organization--powers--funds, expenditure, purpose, restrictions.**

210.861. 1. When the tax prescribed by section 210.860 or section 67.1775, RSMo, is established, the governing body of the city or county or city not within a county shall appoint a board of directors consisting of nine members, who shall be residents of the city or county or city not within a county. All board members shall be appointed to serve for a term of three years, except that of the first board appointed, three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. In a city not within a county, or any county of the first classification with a charter form of government with a population not less than nine hundred thousand inhabitants, or any county of the first classification with a charter form of government with a population not less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than one hundred seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county of the first classification with a population not less than eighty thousand and not more than eighty-three thousand inhabitants, or any third classification county with a population not less than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third classification with a population not less than nineteen thousand five hundred and not more than twenty thousand inhabitants the members of the community mental health board of trustees appointed pursuant to the provisions of sections 205.975 to 205.990, RSMo, shall be the board members for the community children's services fund. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of his or her duties and faithful accounting of all moneys that may come into his or her hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors. The board shall administer and expend all funds generated pursuant to section 210.860 or section 67.1775, RSMo, in a manner consistent with this section.

3. The board may contract with public or not-for-profit agencies licensed or certified where appropriate to provide

qualified services and may place conditions on the use of such funds. The board shall reserve the right to audit the expenditure of any and all funds. The board and any agency with which the board contracts may establish eligibility standards for the use of such funds and the receipt of services. No member of the board shall serve on the governing body, have any financial interest in, or be employed by any agency which is a recipient of funds generated pursuant to section 210.860 or section 67.1775, RSMo.

4. Revenues collected and deposited in the community children's services fund may be expended for the purchase of the following services:

(1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or emotionally disturbed youth; respite care services; and services to unwed mothers;

(2) Outpatient chemical dependency and psychiatric treatment programs; counseling and related services as a part of transitional living programs; home-based and community-based family intervention programs; unmarried parent services; crisis intervention services, inclusive of telephone hotlines; and prevention programs which promote healthy lifestyles among children and youth and strengthen families;

(3) Individual, group, or family professional counseling and therapy services; psychological evaluations; and mental health screenings.

5. Revenues collected and deposited in the community children's services fund may not be expended for inpatient medical, psychiatric, and chemical dependency services, or for transportation services.

(L. 1993 S.B. 253 § 25, A.L. 1994 S.B. 595, A.L. 1995 H.B. 97, A.L. 1996 S.B. 728, A.L. 2001 S.B. 323 & 230, A.L. 2005 H.B. 58 merged with H.B. 186 merged with S.B. 210 merged with S.B. 238)

### **Information system, tracking of children by court and by certain state departments--information to be confidential, when.**

210.865. The juvenile divisions of the circuit courts and the departments of social services, mental health, elementary and secondary education and health shall share information regarding individual children who have come into contact with, or been provided services by, the courts and such departments. The state courts administrator and the departments of social services, mental health, elementary and secondary education and health shall coordinate their information systems to allow for sharing of information regarding and tracking of individual children by the juvenile divisions of the circuit courts, the departments of social services, mental health, elementary and secondary education and health and school districts. All information received by a court, any department or any school district pursuant to this section shall remain subject to the same confidentiality requirements as are imposed on the department that originally collected the information. With regard to the information required to be shared pursuant to this section, the department of elementary and secondary education shall only share information on students who have committed an act which, if it had been committed by an adult, would be a misdemeanor or felony offense pursuant to the laws of Missouri, other states or the federal government.

(L. 1995 H.B. 174, et al. § 5, A.L. 2000 S.B. 944)

### **Juvenile information governance commission created, members, duties, meetings, annual report.**

210.870. 1. There is hereby established the "Juvenile Information Governance Commission".

2. The commission shall be composed of the following members:

- (1) The director of the department of mental health;
  - (2) The director of the department of health and senior services;
  - (3) The commissioner of education;
  - (4) The director of the department of social services;
  - (5) The director of the division of family services of the department of social services;
  - (6) The director of the division of youth services of the department of social services;
  - (7) The state courts administrator;
  - (8) The superintendent of the highway patrol;
  - (9) The chief information officer of the office of information technology of the office of administration;
  - (10) One judge who hears juvenile cases in a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;
  - (11) One judge who hears juvenile cases in a circuit comprised of more than one county, appointed by the chief justice of the supreme court;
  - (12) One juvenile officer representing a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;
  - (13) One juvenile officer representing a circuit comprised of more than one county, appointed by the chief justice of the supreme court.
3. The commission shall authorize categories of information to be shared between executive agencies and juvenile and family divisions of the circuit courts pursuant to section 210.865. The commission shall provide vision, strategy, policy approval and oversight for development and implementation of agency, law enforcement and juvenile and family court information sharing. The commission may appoint subcommittees to address technical and policy issues associated with information sharing, communication, development and implementation.
4. The state courts administrator or a designee shall chair the commission.
5. The commission shall meet as determined by the chair but not less than semiannually. A majority of the members of the commission shall constitute a quorum.
6. No member of the commission shall receive compensation for the performance of duties associated with membership on the commission.
7. Official minutes of all commission meetings shall be prepared by the chair, distributed to the members and filed by the state courts administrator.
8. The commission shall, on January 1, 2002, and annually thereafter on January first of each succeeding year, transmit a report summarizing the commission's findings to the general assembly.

(L. 2001 H.B. 236)

### **Children's services commission study, purpose.**

210.875. 1. The Missouri children's services commission shall evaluate current state laws and policies that affect incarcerated parents and their children. The commission shall place particular emphasis on the areas of child custody and visitation.

2. The commission shall inform legislators and policy makers about the problems facing children of incarcerated parents and the value of coordinating penal policies and child welfare goals.

3. The commission may develop and recommend specific legislative proposals and propose state and local programs to respond to the needs of children of incarcerated parents including, but not limited to, alternative sentencing laws and the establishment of community-based care facilities to maintain custody in the incarcerated parent and to promote the welfare of such parent's children.

(L. 1998 S.B. 720)

## **Courts and agencies to provide information.**

210.877. The circuit courts\* of this state, the office of the state courts administrator, the department of public safety, the department of corrections and the department of social services shall cooperate with the commission by providing information needed by the commission as requested by the commission.

(L. 1998 S.B. 720)

\*Word "court" appears in original rolls.

## **Definitions.**

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005\*, RSMo. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health and senior services;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any person, corporation, or association who provides in-home services under contract with the division of aging, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Patrol", the Missouri state highway patrol;

- (7) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;
- (8) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;
- (9) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health, the division of aging, the department of health and senior services or the department of elementary and secondary education;
- (10) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;
- (11) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

(L. 1999 H.B. 490 & H.B. 308 § 3, A.L. 2001 S.B. 48)

\*Section 289.005 was repealed by H.B. 393, 1995.

## **Family care safety registry and access line established, contents.**

210.903. 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care providers through:

- (1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;
- (2) Probable cause findings of abuse and neglect prior to August 28, 2004, or findings of abuse and neglect by a preponderance of the evidence after August 28, 2004, pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;
- (3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;
- (4) As of January 1, 2003, the department of mental health's employee disqualification registry;
- (5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;
- (6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259;
- (7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo; and
- (8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

(L. 1999 H.B. 490 & H.B. 308 § 4, A.L. 2001 S.B. 48, A.L. 2003 S.B. 184, A.L. 2004 H.B. 1453)

## **Registration form, contents--violation, penalty--fees--voluntary registration permitted, when.**

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care or personal-care worker who fails to submit a completed registration form to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost other than the costs required pursuant to sections 210.481 to 210.565.

5. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

6. The provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care or related personal care.

(L. 1999 H.B. 490 & H.B. 308 § 5, A.L. 2001 S.B. 48, A.L. 2002 S.B. 923, et al.)

## **Department duties--information included in registry, when--registrant notification.**

210.909. 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

- (1) Determine if a probable cause finding of child abuse or neglect prior to August 28, 2004, or a finding of child abuse or neglect by a preponderance of the evidence after August 28, 2004, involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

- (2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;
- (3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;
- (4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;
- (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo; and
- (6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo; and
- (7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

(L. 1999 H.B. 490 & H.B. 308 § 6, A.L. 2001 S.B. 48, A.L. 2003 S.B. 184, A.L. 2004 H.B. 1 453)

### **Right to appeal, procedure.**

210.912. The department's registration form for the family care safety registry and the department's notification pursuant to subsection 1 of section 210.906 and subsection 3 of section 210.909 shall advise the person of a right to appeal the information contained in the registry. Such right to appeal shall be limited only to the accuracy in the transfer of information to the registry and shall not include a right to appeal the accuracy of the substance of the information transferred. Any such appeal shall be filed in writing at the office of the director of the department of health and senior services within thirty days of receiving the results of the determination. An administrative appeal shall be set within thirty days of the filing of the appeal and a decision shall be made within sixty days. If the appeal is decided in favor of such person, the person's records shall be restored in the registry along with a copy of the hearing decision. If the appeal is decided against such person, the person may seek judicial review of such decision pursuant to sections 536.100 to 536.150, RSMo. An applicant's right to appeal herein is in addition to any other appeal rights granted by state law.

(L. 1999 H.B. 490 & H.B. 308 § 7)

### **Departmental collaboration on registry information--rulemaking authority.**

210.915. The department of corrections, the department of public safety, the department of social services and the department of mental health shall collaborate with the department to compare records on child-care, elder-care and

personal-care workers, and the records of persons with criminal convictions and the background checks pursuant to subdivisions (1) to (6) of subsection 2 of section 210.903, and to enter into any interagency agreements necessary to facilitate the receipt of such information and the ongoing updating of such information. The department shall promulgate rules and regulations concerning such updating, including subsequent background reviews as listed in subsection 1 of section 210.909.

(L. 1999 H.B. 490 & H.B. 308 § 8, A.L. 2001 S.B. 48)

### **Toll-free telephone service maintained for access to information.**

210.918. The department shall establish and maintain a toll-free telephone service to promote family and community safety by allowing access to certain information recorded in the registry, as provided in section 210.921. The department shall develop strategies to promote public awareness of the family care safety registry and toll-free telephone service.

(L. 1999 H.B. 490 & H.B. 308 § 9)

### **Release of registry information, when--limitations of disclosure --immunity from liability, when.**

210.921. 1. The department shall not provide any registry information pursuant to this section unless the department obtains the name and address of the person calling, and determines that the inquiry is for employment purposes only. For purposes of sections 210.900 to 210.936, "employment purposes" includes direct employer-employee relationships, prospective employer-employee relationships, and screening and interviewing of persons or facilities by those persons contemplating the placement of an individual in a child-care, elder-care or personal-care setting. Disclosure of background information concerning a given applicant recorded by the department in the registry shall be limited to:

(1) Confirming whether the individual is listed in the registry; and

(2) Indicating whether the individual has been listed or named in any of the background checks listed in subsection 2 of section 210.903. If such individual has been so listed, the department of health and senior services shall only disclose the name of the background check in which the individual has been identified. With the exception of any agency licensed by the state to provide child care, elder care or personal care which shall receive specific information immediately if requested, any specific information related to such background check shall only be disclosed after the department has received a signed request from the person calling, with the person's name, address and reason for requesting the information.

2. Any person requesting registry information shall be informed that the registry information provided pursuant to this section consists only of information relative to the state of Missouri and does not include information from other states or information that may be available from other states.

3. Any person who uses the information obtained from the registry for any purpose other than that specifically provided for in sections 210.900 to 210.936 is guilty of a class B misdemeanor.

4. When any registry information is disclosed pursuant to subdivision (2) of subsection 1 of this section, the department shall notify the registrant of the name and address of the person making the inquiry.

5. The department of health and senior services staff providing information pursuant to sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions; provided, however, any department of health and senior services staff person who releases registry

information in bad faith or with ill intent shall not have immunity from any liability, civil or criminal. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from the release of registry information. The department is prohibited from selling the registry or any portion of the registry for any purpose including "employment purposes" as defined in subsection 1 of this section.

(L. 1999 H.B. 490 & H.B. 308 § 10, A.L. 2001 S.B. 48)

### **Use of registry information by certain departments, when.**

210.922. The department of health and senior services, department of mental health, and department of social services may use the registry information to carry out the duties assigned to the department pursuant to this chapter and chapters 190, 195, 197, 198, 630, and 660, RSMo.

(L. 2001 S.B. 48, A.L. 2003 S.B. 184)

### **Rulemaking authority.**

210.924. The department and the department of social services shall promulgate rules and regulations necessary to implement the provisions of sections 210.900 to 210.936. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 210.900 to 210.936 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1999 H.B. 490 & H.B. 308 § 11)

### **Annual report, when, contents.**

210.927. The department of health and senior services shall make an annual report, no later than July first of each year, to the speaker of the house of representatives and the president pro tem of the senate on the operation of the family care safety registry and toll-free telephone service, including data on the number of information requests received from the public, identification of any barriers encountered in administering the provisions of sections 210.900 to 210.936, recommendations for removing or minimizing the barriers so identified, and any recommendations for improving the delivery of information on child-care, elder-care and personal-care workers to the public.

(L. 1999 H.B. 490 & H.B. 308 § 12, A.L. 2001 S.B. 48)

### **Registration qualifies as compliance with other background check requirements, elder-care workers, when.**

210.933. For any elder-care worker listed in the registry or who has submitted the registration form as required by

sections 210.900 to 210.936, an elder-care provider may access the registry in lieu of the requirements established pursuant to section 660.315, RSMo, or to subsections\* 3, 4 and 5 of section 660.317, RSMo.

(L. 1999 H.B. 490 & H.B. 308 § 14)

\*Word "subsection" appears in original rolls.

## **Registry information deemed public record.**

210.936. For purposes of providing background information pursuant to sections 210.900 to 210.936, reports and related information pursuant to sections 198.070 and 198.090, RSMo, sections 210.109 to 210.183, section 630.170, RSMo, and sections 660.300 to 660.317, RSMo, shall be deemed public records.

(L. 1999 H.B. 490 & H.B. 308 § 15, A.L. 2001 S.B. 48)

## **Safe place for newborns act--definitions--procedure--immunity from liability.**

210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

2. As used in this section, the following terms mean:

(1) "Hospital", as defined in section 197.020, RSMo;

(2) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(3) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045 or 568.050, RSMo, for actions related to the voluntary relinquishment of a child up to five days old pursuant to this section and it shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050, RSMo, that a parent who is a defendant voluntarily relinquished a child no more than one year old pursuant to this section if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, in a health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

(c) A law enforcement officer;

(2) The child was no more than one year old when delivered by the parent to any person listed in subdivision (1) of this subsection; and

(3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than one year old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197, RSMo.

5. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health or safety of the child. The hospital shall notify the division of family services and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective custody order ordering custody of the child to the division, the division of family services shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

6. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days of such public notice, the nonrelinquishing parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016, RSMo, to determine whether attempts have previously been made to preserve parental rights to the child. If such attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of the child to such putative father.

7. (1) If a relinquishing parent of a child relinquishes custody of the child to any person listed in subsection 3 of this section in accordance with this section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps necessary to establish parentage within thirty days after the public notice or specific notice provided in subsection 6 of this section.

(2) If a nonrelinquishing parent fails to take steps to establish parentage within the thirty-day period specified in subdivision (1) of this subsection, the nonrelinquishing parent may have all of his or her rights terminated with respect to the child.

(3) When a nonrelinquishing parent inquires at a hospital regarding a child whose custody was relinquished pursuant to this section, such facility shall refer the nonrelinquishing parent to the division of family services and the juvenile court exercising jurisdiction over the child.

8. The persons listed in subdivision (1) of subsection 3 of this section shall be immune from civil, criminal, and administrative liability for accepting physical custody of a child pursuant to this section if such persons accept custody in good faith. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of such child.

9. The division of family services shall:

(1) Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

10. Nothing in this section shall be construed as conflicting with section 210.125.

## **List of children's products to be furnished to all child-care facilities by department--disposal of unsafe products--inspections by department--rulemaking authority.**

210.1007. 1. The department of health and senior services shall, on or before July 1, 2003, and quarterly thereafter, provide all child-care facilities licensed pursuant to this chapter with a comprehensive list of children's products that have been identified by the Consumer Product Safety Commission as unsafe.

2. Upon notification, a child-care facility shall inspect its premises and immediately dispose of any unsafe children's products which are discovered. Such inspection shall be documented by signing and dating the department's notification form in a space designated by the department. Signed and dated notification forms shall be maintained in the facility's files for departmental inspection.

3. During regular inspections, the department shall document the facility's maintenance of past signed and dated notification forms. If the department discovers an unsafe children's product, the facility shall be instructed to immediately dispose of the product. If a facility fails to dispose of a product after being given notice that it is unsafe, it shall be considered a violation under the inspection.

4. The department may promulgate rules for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

(L. 2002 S.B. 923, et al.)

## **Amber alert system created--department to develop system regions--false report, penalty.**

210.1012. 1. There is hereby created a statewide program called the "Amber Alert System" referred to in this section as the "system" to aid in the identification and location of an abducted child.

2. For the purposes of this section, "abducted child" means a child whose whereabouts are unknown and who is:

(1) Less than eighteen years of age and reasonably believed to be the victim of the crime of kidnapping as defined by section 565.110, RSMo, as determined by local law enforcement;

(2) Reasonably believed to be the victim of the crime of child kidnapping as defined by section 565.115, RSMo, as determined by local law enforcement; or

(3) Less than eighteen years of age and at least fourteen years of age and who, if under the age of fourteen, would otherwise be reasonably believed to be a victim of child kidnapping as defined by section 565.115, RSMo, as determined by local law enforcement.

3. The department of public safety shall develop regions to provide the system. The department of public safety shall coordinate local law enforcement agencies and public commercial television and radio broadcasters to provide an effective system. In the event that a local law enforcement agency opts not to set up a system and an abduction occurs within the jurisdiction, it shall notify the department of public safety who will notify local media in the region.

4. The Amber alert system shall include all state agencies capable of providing urgent and timely information to the public together with broadcasters and other private entities that volunteer to participate in the dissemination of urgent public information. At a minimum, the Amber alert system shall include the department of public safety, highway patrol, department of transportation, department of health and senior services, and Missouri lottery.

5. The department of public safety shall have the authority to notify other regions upon verification that the criteria established by the oversight committee has been met.

6. Participation in an Amber alert system is entirely at the option of local law enforcement agencies and federally licensed radio and television broadcasters.

7. Any person who knowingly makes a false report that triggers an alert pursuant to this section is guilty of a class A misdemeanor.

(L. 2003 H.B. 185 merged with S.B. 30, A.L. 2007 S.B. 84)

### **Amber alert system oversight committee created, duties, members, compensation--rulemaking authority.**

210.1014. 1. There is hereby created the "Amber Alert System Oversight Committee", whose primary duty shall be to develop criteria and procedures for the Amber alert system and shall be housed within the department of public safety. The committee shall regularly review the function of the Amber alert system and revise its criteria and procedures in cooperation with the department of public safety to provide for efficient and effective public notification. As soon as practicable, the committee shall adopt criteria and procedures to expand the Amber alert system to provide urgent public alerts related to homeland security, criminal acts, health emergencies, and other imminent dangers to the public health and welfare.

2. The Amber alert system oversight committee shall consist of ten members of which seven members shall be appointed by the governor with the advice and consent of the senate. Such members shall represent the following entities: two representatives of the Missouri Sheriffs' Association; two representatives of the Missouri Police Chiefs Association; one representative of small market radio broadcasters; one representative of large market radio broadcasters; one representative of television broadcasters. The director of the department of public safety shall also be a member of the committee and shall serve as chair of the committee. Additional members shall include one representative of the highway patrol and one representative of the department of health and senior services.

3. Members of the oversight committee shall serve a term of four years, except that members first appointed to the committee shall have staggered terms of two, three, and four years and shall serve until their successor is duly appointed and qualified.

4. Members of the oversight committee shall serve without compensation, except that members shall be reimbursed for their actual and necessary expenses required for the discharge of their duties.

5. The Amber alert system oversight committee shall promulgate rules for the implementation of the Amber alert system. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

(L. 2003 H.B. 185 merged with S.B. 30)