

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 604

96TH GENERAL ASSEMBLY

1580L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.496, 211.447, and 453.070, RSMo, and to enact in lieu thereof three new sections relating to parental rights of individuals with disabilities.

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

Section A. Sections 210.496, 211.447, and 453.070, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.496, 211.447, and 453.070, to read as follows:

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 208.535 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.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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19 **Nothing in this section shall be construed to permit discrimination on the basis of disability**
20 **or disease of an applicant. The disability or disease of an applicant shall not constitute a**
21 **basis for a determination that the applicant is unfit or not suitable to be a foster parent**
22 **without a specific showing that there is a causal relationship between the disability or**
23 **disease and a substantial and significant risk of harm to a child. In cases involving an**
24 **applicant with a disability or disease, determinations made under this section shall**
25 **consider the availability and use of accommodations for the disability or disease, including**
26 **but not limited to assistive technology and support services.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (3) The family of the child has not been provided such services as provided for in section
46 211.183.

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

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

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

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

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

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

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

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

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

75

76 **Nothing in this subdivision shall be construed to permit discrimination on the basis of**
77 **disability or disease;**

78 (3) The child has been under the jurisdiction of the juvenile court for a period of one
79 year, and the court finds that the conditions which led to the assumption of jurisdiction still
80 persist, or conditions of a potentially harmful nature continue to exist, that there is little
81 likelihood that those conditions will be remedied at an early date so that the child can be returned
82 to the parent in the near future, or the continuation of the parent-child relationship greatly
83 diminishes the child's prospects for early integration into a stable and permanent home. In
84 determining whether to terminate parental rights under this subdivision, the court shall consider
85 and make findings on the following:

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

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

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

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

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

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

106 (6) The parent is unfit to be a party to the parent and child relationship because of a
107 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined
108 in section 455.010, child abuse or drug abuse before the child or of specific conditions directly
109 relating to the parent and child relationship either of which are determined by the court to be of
110 a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care
111 appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed
112 that a parent is unfit to be a party to the parent-child relationship upon a showing that within a
113 three-year period immediately prior to the termination adjudication, the parent's parental rights
114 to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this
115 section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other
116 states.

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

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

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

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

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

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

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

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

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

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

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

146 **10. The disability or disease of a parent shall not constitute a basis for a**
147 **determination that a child is a child in need of care, for the removal of custody of a child**
148 **from the parent, or for the termination of parent rights without a specific showing that**
149 **there is a causal relation between the disability or disease and harm to the child.**

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

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

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

15 3. The department of social services, division of family services, shall develop rules and
16 regulations regarding the content of the assessment of the petitioner or petitioners. The content
17 of the assessment shall include but not be limited to, a report on the condition of the petitioner's
18 home and information on the petitioner's education, financial, marital, medical and psychological
19 status and criminal background check. If an assessment is conducted after August 28, 1997, but
20 prior to the promulgation of rules and regulations by the department concerning the contents of
21 such assessment, any discrepancy between the contents of the actual assessment and the contents
22 of the assessment required by department rule shall not be used as the sole basis for invalidating

23 an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section
24 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

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

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

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

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

44 **8. (1) Nothing in this section shall be construed to permit discrimination on the**
45 **basis of disability or disease of a prospective adoptive parent.**

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

50 **(3) In cases involving a prospective adoptive parent with a disability or disease,**
51 **determinations made under this section shall consider the availability and use of**
52 **accommodations for the disability or disease, including but not limited to assistive**
53 **technology and support services.**