

SECOND REGULAR SESSION

# HOUSE BILL NO. 1263

## 91ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE GRATZ.

Pre-filed December 18, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2839L.011

---

### AN ACT

To repeal sections 568.030, 568.045, and 568.050, RSMo, and to enact in lieu thereof four new sections relating to abandonment of a child.

---

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

Section A. Sections 568.030, 568.045, and 568.050, RSMo, are repealed and four new  
2 sections enacted in lieu thereof, to be known as sections 210.950, 568.030, 568.045, and  
3 568.050, to read as follows:

**210.950. 1. A parent shall not be guilty of a violation of section 568.030, 568.045,  
2 or 568.050, RSMo, if:**

3 **(1) The parent leaves his or her child in the physical custody of any person which**  
4 **such person is actively engaged in the performance of the following professions, whether**  
5 **on a paid or volunteer basis:**

6 **(a) An employee, agent, or member of the staff of hospital, as defined in section**  
7 **197.020, RSMo;**

8 **(b) A law enforcement officer, as defined in section 556.061, RSMo;**

9 **(c) A firefighter, whether regular or permanent, of the fire department of a political**  
10 **subdivision, volunteer fire protection association or fire protection district, including**  
11 **probationary firefighters;**

12 **(d) A minister or member of the clergy, or an employee or member of the staff of**  
13 **any church; and**

14 **(2) The child is no more than thirty days old; and**

15 **(3) The parent has not physically abused the child.**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16           **2. A person described in subdivision (1) of subsection 1 of this section may take**  
17 **physical custody of a child who is not more than thirty days old if the child is voluntarily**  
18 **delivered to the facility by the child's parent and the parent expresses his or her intention**  
19 **not to return for the child; provided that the person taking custody of the child reasonably**  
20 **believes that he or she is able to take necessary action to protect the child from any**  
21 **apparent threat to the physical health or safety of the child. The person shall take all**  
22 **reasonable actions to protect the physical health or safety of the child until the person**  
23 **transfers custody of the child to the division of family services pursuant to subsection 3 of**  
24 **this section. The parent's voluntary delivery of the child in accordance with this section**  
25 **shall constitute the parent's implied consent to any such act.**

26           **3. A person taking custody of a child pursuant to this section shall notify the**  
27 **division of family services of the location of the child as soon as is reasonably possible after**  
28 **custody is taken of such child. Upon such notification, the division shall take custody of**  
29 **the child as soon as is reasonably possible, and in any event within six hours. The division**  
30 **of family services shall take reports from persons receiving custody of children pursuant**  
31 **to this section on the toll-free telephone line established in subsection 4 of this section.**

32           **4. To raise public awareness and to educate the public regarding the provisions of**  
33 **this section, the division shall:**

34           **(1) Establish a toll-free twenty-four hour telephone line to provide information,**  
35 **including but not limited to the following:**

36           **(a) Information that the persons described in subdivision (1) of subsection 1 of this**  
37 **section will take custody of a child that is transferred as provided in this section;**

38           **(b) Information regarding legal and procedural requirements related to the**  
39 **voluntary transfer of a child as provided in this section;**

40           **(c) Information regarding the legal consequences for endangering the welfare of**  
41 **a child and potential criminal penalties;**

42           **(d) Information that surrendering a child as provided in this section is an**  
43 **affirmative defense to any criminal charges initiated pursuant to sections 568.030, 568.045,**  
44 **and 568.050, RSMo; and**

45           **(2) Prepare and distribute a pamphlet providing information to the public**  
46 **concerning the provisions of this section which shall prominently display the toll-free**  
47 **telephone number required in subdivision (1) of this subsection.**

48           **5. The parental rights of any parent of a child whose custody is transferred**  
49 **pursuant to this section may be terminated as provided by sections 211.442 to 211.487,**  
50 **RSMo, and chapter 453, RSMo.**

568.030. 1. A person commits the crime of abandonment of a child in the first degree

2 if, as a parent, guardian or other person legally charged with the care or custody of a child less  
3 than four years old, he **or she** leaves the child in any place with purpose wholly to abandon it,  
4 under circumstances which are likely to result in serious physical injury or death.

5 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**  
6 **defendant voluntarily transferred custody of the child in the manner provided by section**  
7 **210.950, RSMo.**

8 **3.** Abandonment of a child in the first degree is a class B felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first  
2 degree if:

3 (1) The person knowingly acts in a manner that creates a substantial risk to the life, body,  
4 or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age of  
6 seventeen years over whom the person is a parent, guardian, or otherwise charged with the care  
7 and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen years  
9 of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

10 (4) Such person enlists the aid, either through payment or coercion, of a person less than  
11 seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport,  
12 test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any  
13 material used to manufacture, compound, produce, prepare, test or analyze amphetamine or  
14 methamphetamine or any of their analogues; or

15 (5) Such person, in the presence of a person less than seventeen years of age, unlawfully  
16 manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine  
17 or methamphetamine or any of their analogues.

18 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**  
19 **defendant voluntarily transferred custody of the child in the manner provided by section**  
20 **210.950, RSMo.**

21 **3.** Endangering the welfare of a child in the first degree is a class D felony unless the  
22 offense is committed as part of a ritual or ceremony, or except on a second or subsequent  
23 offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the  
2 second degree if:

3 (1) [He] **The person** with criminal negligence acts in a manner that creates a substantial  
4 risk to the life, body or health of a child less than seventeen years old; or

5 (2) [He] **The person** knowingly encourages, aids or causes a child less than seventeen  
6 years old to engage in any conduct which causes or tends to cause the child to come within the

7 provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection  
8 1 of section 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of  
10 a child less than seventeen years old, [he] **the person** recklessly fails or refuses to exercise  
11 reasonable diligence in the care or control of such child to prevent him **or her** from coming  
12 within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of  
13 subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) [He] **The person** knowingly encourages, aids or causes a child less than seventeen  
15 years of age to enter into any room, building or other structure which is a public nuisance as  
16 defined in section 195.130, RSMo.

17 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**  
18 **defendant voluntarily transferred custody of the child in the manner provided by section**  
19 **210.950, RSMo.**

20 **3.** Nothing in this section shall be construed to mean the welfare of a child is endangered  
21 for the sole reason that he **or she** is being provided nonmedical remedial treatment recognized  
22 and permitted under the laws of this state.

23 [3.] **4.** Endangering the welfare of a child in the second degree is a class A misdemeanor  
24 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class  
25 D felony.