

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE #2 FOR
SENATE BILL NO. 155
93RD GENERAL ASSEMBLY

Reported from the Committee on Children and Families April 13, 2005, with recommendation that the House Committee Substitute for Senate Committee Substitute #2 for Senate Bill No. 155 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0716L.06C

AN ACT

To repeal section 210.152, RSMo, and to enact in lieu thereof one new section relating to reporting of child abuse and neglect.

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

Section A. Section 210.152, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.152, to read as follows:

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) [For investigation reports initiated by a person required to report pursuant to 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 date of the report. 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 date of the report. Such report shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such two-year period, the identifying information shall be removed from the records of the division and destroyed;] **For investigation reports, where**

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.

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

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

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

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

27 (1) That the division has determined by a probable cause finding prior to August 28,
28 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists
29 and that the division shall retain all identifying information regarding the abuse or neglect; that
30 such information shall remain confidential and will not be released except to law enforcement
31 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
32 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's
33 determination through a review by the child abuse and neglect review board as provided in
34 subsection 3 of this section; or

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

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

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

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

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