

SECOND REGULAR SESSION

HOUSE BILL NO. 1298

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LeVOTA (Sponsor), WILDBERGER, HARRIS (23), BOWMAN, BAKER (25), LAMPE, HUGHES, BURNETT, KUESSNER, JOLLY, SHOEMYER, SKAGGS, WRIGHT-JONES AND BROWN (50) (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3847L.01I

AN ACT

To repeal sections 210.115 and 565.020, RSMo, and to enact in lieu thereof two new sections relating to Erica's law, with a penalty provision.

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

Section A. Sections 210.115 and 565.020, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.115 and 565.020, to read as follows:

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor,
2 optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the
3 examination, care, treatment or research of persons, and any other health practitioner,
4 psychologist, mental health professional, social worker, day care center worker or other
5 child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel,
6 teacher, principal or other school official, minister as provided by section 352.400, RSMo, peace
7 officer or law enforcement official, or other person with responsibility for the care of children
8 has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or
9 observes a child being subjected to conditions or circumstances which would reasonably result
10 in abuse or neglect, **or any adult person who resides in the same household and witnesses**
11 **the abuse or neglect or possible abuse or neglect of a child**, that person shall immediately
12 report or cause a report to be made to the division in accordance with the provisions of sections
13 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted

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 by a person responsible for the child's care, custody and control as specified in section 210.110,
15 but shall also include abuse inflicted by any other person.

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

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

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

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

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

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

565.020. 1. A person commits the crime of murder in the first degree if [he] **such**
2 **person** knowingly causes the death of another person after deliberation upon the matter.

3 2. **When a child is the victim, a person commits the crime of murder in the first**
4 **degree if such person knowingly causes the death of a child and a heinous element is**
5 **involved in the commission of the crime. For purposes of this subsection, a "heinous**
6 **element" includes:**

- 7 (1) **Torturing the victim;**
- 8 (2) **Intentionally inflicting great bodily harm upon the victim;**
- 9 (3) **Intentionally mutilating the victim;**
- 10 (4) **Exposing the victim to extreme inhumane conditions;**
- 11 (5) **Being armed with a dangerous weapon or any article used or fashioned in a**
12 **manner to lead the victim to reasonably believe it to be a dangerous weapon and such**
13 **weapon or article is used or threatened to be used to cause the victim to submit;**
- 14 (6) **The offense involves sexual penetration or sexual contact with the victim; or**
- 15 (7) **Moving the victim from one location to another.**

16 3. Murder in the first degree is a class A felony, and the punishment shall be either death
17 or imprisonment for life without eligibility for probation or parole, or release except by act of
18 the governor; except that, if a person has not reached his **or her** sixteenth birthday at the time
19 of the commission of the crime, the punishment shall be imprisonment for life without eligibility
20 for probation or parole, or release except by act of the governor.

✓