

SECOND REGULAR SESSION

HOUSE BILL NO. 2103

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor) AND DONNELLY (Co-sponsor).

Read 1st time March 30, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5700L.01I

AN ACT

To repeal sections 210.565, 210.762, 211.319, and 211.444, RSMo, and to enact in lieu thereof four new sections relating to termination of parental rights.

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

Section A. Sections 210.565, 210.762, 211.319, and 211.444, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 210.565, 210.762, 211.319,
3 and 211.444, to read as follows:

210.565. 1. Whenever a child is placed in a foster home and the court has determined
2 pursuant to subsection 3 of this section that foster home placement with relatives is not contrary
3 to the best interest of the child, the children's division shall give foster home placement to
4 relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who
5 request consideration shall be given preference and first consideration for foster home placement.
6 **Preference for placement with relatives shall not apply when the parent has consented in**
7 **writing to the termination of his or her parental rights.**

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

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

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.

15 the reasons why the best interests of the child necessitate placement of the child with persons
16 other than relatives.

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

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

210.762. 1. When a child is taken into custody by a juvenile officer or law enforcement
2 official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with
3 the division, the division may make a temporary placement and shall arrange for a family support
4 team meeting prior to or within twenty-four hours following the protective custody hearing held
5 under section 211.032, RSMo. After a child is in the division's custody and a temporary
6 placement has been made, the division shall arrange an additional family support team meeting
7 prior to taking any action relating to the placement of such child; except that, when the welfare
8 of a child in the custody of the division requires an immediate or emergency change of
9 placement, the division may make a temporary placement and shall schedule a family support
10 team meeting within seventy-two hours. **The requirement for a family support team meeting**
11 **shall not apply when the parent has consented in writing to the termination of his or her**
12 **parental rights.**

13 2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or
14 custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any
15 designee of the parent that has written authorization shall be notified and invited to participate
16 in all family support team meetings. The family support team meeting may include such other
17 persons whose attendance at the meeting may assist the team in making appropriate decisions
18 in the best interests of the child. If the division finds that it is not in the best interest of a child
19 to be placed with relatives, the division shall make specific findings in the division's report
20 detailing the reasons why the best interests of the child necessitate placement of the child with
21 persons other than relatives.

22 3. The division shall use the form created in subsection 2 of section 210.147 to be signed
23 upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all
24 involved parties are aware of the team's decision regarding the custody and placement of the
25 child. Any dissenting views must be recorded and attested to on such form.

26 4. The case manager shall be responsible for including such form with the case records
27 of the child.

211.319. 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant
2 to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases

3 pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be
4 open to the public; **except that, when the parent has consented in writing to the termination**
5 **of his or her parental rights, the hearing shall be closed.** The court, on its own motion, may
6 exclude for good cause shown any person or persons from the proceedings to protect the welfare
7 and best interests of the child and for exceptional circumstances. Any party to a juvenile court
8 proceeding referred to in this subsection, except the state, may file a motion requesting that the
9 general public be excluded from the proceeding or any portion of the proceeding. Upon the
10 filing of such motion, the court shall hear arguments by the parties, but no evidence, and shall
11 make a determination whether closure is in the best interest of the parties or whether it is in the
12 public interest to deny such motion. The court shall make a finding on the record when a motion
13 to close a hearing pursuant to this section is made and heard by the court.

14 2. Notwithstanding the provisions of subsection 1 of this section, the general public shall
15 be excluded from all juvenile court proceedings referred to in subsection 1 of this section during
16 the testimony of any child or victim and only such persons who have a direct interest in the case
17 or in the work of the court will be admitted to the proceedings.

18 3. For juvenile court proceedings described in subsection 1 of this section, pleadings and
19 orders of the juvenile court other than confidential files and those specifically ordered closed by
20 the juvenile court judge shall be open to the general public. For purposes of this section,
21 "confidential file" means all other records and reports considered closed or confidential by law,
22 including but not limited to medical reports, psychological or psychiatric evaluations,
23 investigation reports of the children's division, social histories, home studies, and police reports
24 and law enforcement records. Only persons who are found by the court to have a legitimate
25 interest shall be allowed access to confidential or closed files. In determining whether a person
26 has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and
27 safety of the public, and the interest of any child involved.

28 4. For records made available to the public pursuant to this section:

29 (1) The identity of any child involved except the perpetrator shall not be disclosed and
30 all references in such records to the identity of any child involved except the perpetrator shall be
31 redacted prior to disclosure to the public; and

32 (2) All information that may identify or lead to the disclosure of the identity of a reporter
33 of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not
34 be disclosed to the public.

35 5. The provisions of this section shall apply to juvenile court proceedings and records
36 specified in this section in which the initial pleadings are filed on or after July 1, 2005.

211.444. 1. The juvenile court may, upon petition of the juvenile officer **or a child**
2 **placing agency licensed under sections 210.481 to 210.536, RSMo,** or the court before which

3 a petition for adoption has been filed pursuant to the provisions of chapter 453, RSMo, terminate
4 the rights of a parent to a child if the court finds that such termination is in the best interests of
5 the child and the parent has consented in writing to the termination of his or her parental rights.

6 2. The written consent required by subsection 1 of this section may be executed before
7 or after the institution of the proceedings and shall be acknowledged before a notary public. In
8 lieu of such acknowledgment, the signature of the person giving the written consent shall be
9 witnessed by at least two adult persons who are present at the execution whose signatures and
10 addresses shall be plainly written thereon and who determine and certify that the consent is
11 knowingly and freely given. The two adult witnesses shall not be the prospective parents. The
12 notary public or witnesses shall verify the identity of the party signing the consent.

13 3. The written consent required by subsection 1 of this section shall be valid and
14 effective only after the child is at least forty-eight hours old and if it complies with the other
15 requirements of section 453.030, RSMo.

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