

SECOND REGULAR SESSION

# HOUSE BILL NO. 1398

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ROORDA.

3522L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 210.160, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect.

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

Section A. Section 210.160, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.116 and 210.160, to read as follows:

**210.116. Notwithstanding any other provision of law, no child who is or is suspected to be the victim of abuse and neglect shall be denied access to mental health care and treatment, regardless of the person or entity responsible for the child's care, custody, and control.**

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support

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 team meetings involving the child. Employees of the division, officers of the court, and  
15 employees of any agency involved shall fully inform the guardian ad litem of all aspects of the  
16 case of which they have knowledge or belief.

17         3. The appointing judge shall require the guardian ad litem to faithfully discharge such  
18 guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and  
19 appoint another. The appointing judge shall have the authority to examine the general and  
20 criminal background of persons appointed as guardians ad litem, including utilization of the  
21 family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the  
22 safety and welfare of the children such persons are appointed to represent. The judge in making  
23 appointments pursuant to this section shall give preference to persons who served as guardian  
24 ad litem for the child in the earlier proceeding, unless there is a reason on the record for not  
25 giving such preference.

26         4. The guardian ad litem may be awarded a reasonable fee for such services to be set by  
27 the court. The court, in its discretion, may award such fees as a judgment to be paid by any party  
28 to the proceedings or from public funds. However, no fees as a judgment shall be taxed against  
29 a party or parties who have not been found to have abused or neglected a child or children. Such  
30 an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem.  
31 Such final judgment shall be enforceable against the parties in accordance with chapter 513,  
32 RSMo.

33         5. The court may designate volunteer advocates, who may or may not be attorneys  
34 licensed to practice law, to assist in the performance of the guardian ad litem duties for the court.  
35 Nonattorney volunteer advocates shall not provide legal representation. The court shall have the  
36 authority to examine the general and criminal background of persons designated as volunteer  
37 advocates, including utilization of the family care safety registry and access line pursuant to  
38 sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are  
39 designated to represent. The volunteer advocate shall be provided with all reports relevant to the  
40 case made to or by any agency or person, shall have access to all records of such agencies or  
41 persons relating to the child or such child's family members or placements of the child, and upon  
42 designation by the court to a case, shall be informed of and have the right to attend any and all  
43 family support team meetings involving the child. Any such designated person shall receive no  
44 compensation from public funds. This shall not preclude reimbursement for reasonable  
45 expenses.

46         6. Any person appointed to perform guardian ad litem duties shall have completed a  
47 training program in:

48           **(1) Child abuse and neglect. The requirement of this subsection shall be satisfied**  
49 **if the guardian ad litem has a degree or significant training and experience in a mental**  
50 **health profession; and**

51           **(2) Permanency planning [and]. The guardian ad litem** shall advocate for timely court  
52 hearings whenever possible to attain permanency for a child as expeditiously as possible to  
53 reduce the effects that prolonged foster care may have on a child.

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55 A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad  
56 litem should the circumstances of the particular case so require.

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