

SECOND REGULAR SESSION

# HOUSE BILL NO. 2413

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES STREAM (Sponsor),  
CORCORAN AND ZIMMERMAN (Co-sponsors).

5340L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 208.151, RSMo, and to enact in lieu thereof two new sections relating to foster care.

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

Section A. Section 208.151, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 160.1990 and 208.151, to read as follows:

**160.1990. 1. In order to remove barriers to educational success imposed on foster care children because of frequent moves, the department of elementary and secondary education shall ensure that the following criteria are implemented in every school district in this state regarding enrollment of foster care children:**

(1) **Facilitate the timely enrollment of foster care children and ensure that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or districts or variations in entrance and age requirements;**

(2) **Facilitate the student placement process through which foster care children are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment;**

(3) **Facilitate the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;**

(4) **Facilitate the on-time graduation of foster care children;**

(5) **Provide for the promulgation and enforcement of administrative rules implementing the provisions of this section;**

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.

16           **(6) Provide for the uniform collection and sharing of information between and**  
17 **among schools, foster care children, and their families under this section;**

18           **(7) Promote flexibility and cooperation between the educational system, foster**  
19 **parents, and the foster care student in order to achieve educational success for the student.**

20           **2. For purposes of this section, the following terms shall mean:**

21           **(1) "Education records", those official records, files, and data directly related to**  
22 **a foster care student and maintained by the school or local education agency, including but**  
23 **not limited to records encompassing all the material kept in the student's cumulative folder**  
24 **such as general identifying data, records of attendance and of academic work completed,**  
25 **records of achievement and results of evaluative tests, health data, disciplinary status, test**  
26 **protocols, and individualized education programs;**

27           **(2) "Extracurricular activities", a voluntary activity sponsored by the school.**  
28 **Extracurricular activities include, but are not limited to, preparation for and involvement**  
29 **in public performances, contests, athletic competitions, demonstrations, displays, and club**  
30 **activities;**

31           **(3) "Foster care child", a school-aged child enrolled in kindergarten through**  
32 **twelfth grade who is residing in a foster care setting in this state;**

33           **(4) "Transition":**

34           **(a) The formal and physical process of transferring from school to school; or**

35           **(b) The period of time in which a foster care student moves from one school to**  
36 **another school.**

37           **3. (1) When a foster care student transfers before or during the school year, the**  
38 **receiving school shall initially honor placement of the student in educational courses based**  
39 **on the student's enrollment in the sending school or educational assessments conducted at**  
40 **the sending school if the courses are offered. Course placement includes but is not limited**  
41 **to honors, international baccalaureate, advanced placement, vocational, technical and**  
42 **career pathways courses. Continuing the student's academic program from the previous**  
43 **school and promoting placement in academically and career challenging courses shall be**  
44 **paramount when considering placement. This requirement does not preclude the receiving**  
45 **school from performing subsequent evaluations to ensure appropriate placement and**  
46 **continued enrollment of the student in the course.**

47           **(2) The receiving school shall initially honor placement of a foster care student in**  
48 **educational programs based on current educational assessments conducted at the sending**  
49 **school or participation or placement in like programs in the sending school. Such**  
50 **programs include, but are not limited to gifted and talented programs and English as a**

51 second language (ESL). This requirement does not preclude the receiving school from  
52 performing subsequent evaluations to ensure appropriate placement of the student.

53 (3) In compliance with the federal requirements of the Individuals with Disabilities  
54 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving school shall initially  
55 provide comparable services to a foster care student with disabilities based on his or her  
56 current Individualized Education Program (IEP). In compliance with the requirements  
57 of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the  
58 Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving school  
59 shall make reasonable accommodations and modifications to address the needs of incoming  
60 foster care students with disabilities, subject to an existing 504 or Title II Plan, to provide  
61 the foster care student with equal access to education. This requirement does not preclude  
62 the receiving school from performing subsequent evaluations to ensure appropriate  
63 placement of the student.

64 (4) Schools shall have flexibility in waiving course or program prerequisites, or  
65 other preconditions for placement in courses or programs offered at the school.

66 4. In order to facilitate the on-time graduation of foster care children, schools shall  
67 incorporate the following procedures:

68 (1) Schools shall waive specific courses required for graduation if similar course  
69 work has been satisfactorily completed in another school or shall provide reasonable  
70 justification for denial. If a waiver is not granted to a foster care student who would  
71 qualify to graduate from the sending school, the receiving school shall provide an  
72 alternative means of acquiring required course work so that graduation may occur on  
73 time;

74 (2) Receiving schools shall accept:

75 (a) Exit or end-of-course exams required for graduation from the sending school;

76 or

77 (b) National norm-referenced achievement tests; or

78 (c) Alternative testing, in lieu of testing requirements for graduation in the  
79 receiving school.

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81 If such alternatives cannot be accommodated by the receiving school for a foster care  
82 student transferring in his or her senior year, the provisions of subsection 5 of this section  
83 shall apply.

84 5. If a foster care student transferring at the beginning or during his or her senior  
85 year is ineligible to graduate from the receiving school after all alternatives have been

86 **considered, the sending and receiving schools shall ensure the receipt of a diploma from**  
87 **the sending school, if the student meets the graduation requirements of the sending school.**

208.151. 1. Medical assistance on behalf of needy persons shall be known as "MO  
2 HealthNet". For the purpose of paying MO HealthNet benefits and to comply with Title XIX,  
3 Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301,  
4 et seq.) as amended, the following needy persons shall be eligible to receive MO HealthNet  
5 benefits to the extent and in the manner hereinafter provided:

6 (1) All participants receiving state supplemental payments for the aged, blind and  
7 disabled;

8 (2) All participants receiving aid to families with dependent children benefits, including  
9 all persons under nineteen years of age who would be classified as dependent children except for  
10 the requirements of subdivision (1) of subsection 1 of section 208.040. Participants eligible  
11 under this subdivision who are participating in drug court, as defined in section 478.001, RSMo,  
12 shall have their eligibility automatically extended sixty days from the time their dependent child  
13 is removed from the custody of the participant, subject to approval of the Centers for Medicare  
14 and Medicaid Services;

15 (3) All participants receiving blind pension benefits;

16 (4) All persons who would be determined to be eligible for old age assistance benefits,  
17 permanent and total disability benefits, or aid to the blind benefits under the eligibility standards  
18 in effect December 31, 1973, or less restrictive standards as established by rule of the family  
19 support division, who are sixty-five years of age or over and are patients in state institutions for  
20 mental diseases or tuberculosis;

21 (5) All persons under the age of twenty-one years who would be eligible for aid to  
22 families with dependent children except for the requirements of subdivision (2) of subsection 1  
23 of section 208.040, and who are residing in an intermediate care facility, or receiving active  
24 treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as  
25 amended;

26 (6) All persons under the age of twenty-one years who would be eligible for aid to  
27 families with dependent children benefits except for the requirement of deprivation of parental  
28 support as provided for in subdivision (2) of subsection 1 of section 208.040;

29 (7) All persons eligible to receive nursing care benefits;

30 (8) All participants receiving family foster home or nonprofit private child-care  
31 institution care, subsidized adoption benefits and parental school care wherein state funds are  
32 used as partial or full payment for such care;

33 (9) All persons who were participants receiving old age assistance benefits, aid to the  
34 permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who

35 continue to meet the eligibility requirements, except income, for these assistance categories, but  
36 who are no longer receiving such benefits because of the implementation of Title XVI of the  
37 federal Social Security Act, as amended;

38 (10) Pregnant women who meet the requirements for aid to families with dependent  
39 children, except for the existence of a dependent child in the home;

40 (11) Pregnant women who meet the requirements for aid to families with dependent  
41 children, except for the existence of a dependent child who is deprived of parental support as  
42 provided for in subdivision (2) of subsection 1 of section 208.040;

43 (12) Pregnant women or infants under one year of age, or both, whose family income  
44 does not exceed an income eligibility standard equal to one hundred eighty-five percent of the  
45 federal poverty level as established and amended by the federal Department of Health and  
46 Human Services, or its successor agency;

47 (13) Children who have attained one year of age but have not attained six years of age  
48 who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget  
49 Reconciliation Act of 1989). The family support division shall use an income eligibility standard  
50 equal to one hundred thirty-three percent of the federal poverty level established by the  
51 Department of Health and Human Services, or its successor agency;

52 (14) Children who have attained six years of age but have not attained nineteen years of  
53 age. For children who have attained six years of age but have not attained nineteen years of age,  
54 the family support division shall use an income assessment methodology which provides for  
55 eligibility when family income is equal to or less than equal to one hundred percent of the federal  
56 poverty level established by the Department of Health and Human Services, or its successor  
57 agency. As necessary to provide MO HealthNet coverage under this subdivision, the department  
58 of social services may revise the state MO HealthNet plan to extend coverage under 42 U.S.C.  
59 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained  
60 nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using  
61 a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r)  
62 of 42 U.S.C. 1396a;

63 (15) The family support division shall not establish a resource eligibility standard in  
64 assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The MO  
65 HealthNet division shall define the amount and scope of benefits which are available to  
66 individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in  
67 accordance with the requirements of federal law and regulations promulgated thereunder;

68 (16) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal  
69 care shall be made available to pregnant women during a period of presumptive eligibility  
70 pursuant to 42 U.S.C. Section 1396r-1, as amended;

71 (17) A child born to a woman eligible for and receiving MO HealthNet benefits under  
72 this section on the date of the child's birth shall be deemed to have applied for MO HealthNet  
73 benefits and to have been found eligible for such assistance under such plan on the date of such  
74 birth and to remain eligible for such assistance for a period of time determined in accordance  
75 with applicable federal and state law and regulations so long as the child is a member of the  
76 woman's household and either the woman remains eligible for such assistance or for children  
77 born on or after January 1, 1991, the woman would remain eligible for such assistance if she  
78 were still pregnant. Upon notification of such child's birth, the family support division shall  
79 assign a MO HealthNet eligibility identification number to the child so that claims may be  
80 submitted and paid under such child's identification number;

81 (18) Pregnant women and children eligible for MO HealthNet benefits pursuant to  
82 subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for MO  
83 HealthNet benefits be required to apply for aid to families with dependent children. The family  
84 support division shall utilize an application for eligibility for such persons which eliminates  
85 information requirements other than those necessary to apply for MO HealthNet benefits. The  
86 division shall provide such application forms to applicants whose preliminary income  
87 information indicates that they are ineligible for aid to families with dependent children.  
88 Applicants for MO HealthNet benefits under subdivision (12), (13) or (14) **of this subsection**  
89 shall be informed of the aid to families with dependent children program and that they are  
90 entitled to apply for such benefits. Any forms utilized by the family support division for  
91 assessing eligibility under this chapter shall be as simple as practicable;

92 (19) Subject to appropriations necessary to recruit and train such staff, the family support  
93 division shall provide one or more full-time, permanent eligibility specialists to process  
94 applications for MO HealthNet benefits at the site of a health care provider, if the health care  
95 provider requests the placement of such eligibility specialists and reimburses the division for the  
96 expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and  
97 equipment, of such eligibility specialists. The division may provide a health care provider with  
98 a part-time or temporary eligibility specialist at the site of a health care provider if the health care  
99 provider requests the placement of such an eligibility specialist and reimburses the division for  
100 the expenses, including but not limited to the salary, benefits, travel, training, telephone,  
101 supplies, and equipment, of such an eligibility specialist. The division may seek to employ such  
102 eligibility specialists who are otherwise qualified for such positions and who are current or  
103 former welfare participants. The division may consider training such current or former welfare  
104 participants as eligibility specialists for this program;

105 (20) Pregnant women who are eligible for, have applied for and have received MO  
106 HealthNet benefits under subdivision (2), (10), (11) or (12) of this subsection shall continue to

107 be considered eligible for all pregnancy-related and postpartum MO HealthNet benefits provided  
108 under section 208.152 until the end of the sixty-day period beginning on the last day of their  
109 pregnancy;

110 (21) Case management services for pregnant women and young children at risk shall be  
111 a covered service. To the greatest extent possible, and in compliance with federal law and  
112 regulations, the department of health and senior services shall provide case management services  
113 to pregnant women by contract or agreement with the department of social services through local  
114 health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo,  
115 or a city health department operated under a city charter or a combined city-county health  
116 department or other department of health and senior services designees. To the greatest extent  
117 possible the department of social services and the department of health and senior services shall  
118 mutually coordinate all services for pregnant women and children with the crippled children's  
119 program, the prevention of mental retardation program and the prenatal care program  
120 administered by the department of health and senior services. The department of social services  
121 shall by regulation establish the methodology for reimbursement for case management services  
122 provided by the department of health and senior services. For purposes of this section, the term  
123 "case management" shall mean those activities of local public health personnel to identify  
124 prospective MO HealthNet-eligible high-risk mothers and enroll them in the state's MO  
125 HealthNet program, refer them to local physicians or local health departments who provide  
126 prenatal care under physician protocol and who participate in the MO HealthNet program for  
127 prenatal care and to ensure that said high-risk mothers receive support from all private and public  
128 programs for which they are eligible and shall not include involvement in any MO HealthNet  
129 prepaid, case-managed programs;

130 (22) By January 1, 1988, the department of social services and the department of health  
131 and senior services shall study all significant aspects of presumptive eligibility for pregnant  
132 women and submit a joint report on the subject, including projected costs and the time needed  
133 for implementation, to the general assembly. The department of social services, at the direction  
134 of the general assembly, may implement presumptive eligibility by regulation promulgated  
135 pursuant to chapter 207, RSMo;

136 (23) All participants who would be eligible for aid to families with dependent children  
137 benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

138 (24) (a) All persons who would be determined to be eligible for old age assistance  
139 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.  
140 Section 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan  
141 as of January 1, 2005; except that, on or after July 1, 2005, less restrictive income

142 methodologies, as authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the  
143 income limit if authorized by annual appropriation;

144 (b) All persons who would be determined to be eligible for aid to the blind benefits  
145 under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C. Section  
146 1396a(f), or less restrictive methodologies as contained in the MO HealthNet state plan as of  
147 January 1, 2005, except that less restrictive income methodologies, as authorized in 42 U.S.C.  
148 Section 1396a(r)(2), shall be used to raise the income limit to one hundred percent of the federal  
149 poverty level;

150 (c) All persons who would be determined to be eligible for permanent and total disability  
151 benefits under the eligibility standards in effect December 31, 1973, as authorized by 42 U.S.C.  
152 1396a(f); or less restrictive methodologies as contained in the MO HealthNet state plan as of  
153 January 1, 2005; except that, on or after July 1, 2005, less restrictive income methodologies, as  
154 authorized in 42 U.S.C. Section 1396a(r)(2), may be used to change the income limit if  
155 authorized by annual appropriations. Eligibility standards for permanent and total disability  
156 benefits shall not be limited by age;

157 (25) Persons who have been diagnosed with breast or cervical cancer and who are  
158 eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be  
159 eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1;

160 (26) Persons who are independent foster care adolescents, as defined in 42 U.S.C.  
161 Section 1396d, or who are within reasonable categories of such adolescents who are under  
162 twenty-one years of age as specified by the state, **or foster care adults who are less than**  
163 **twenty-three years of age and enrolled full-time in a postsecondary educational institution,**  
164 are eligible for coverage under 42 U.S.C. Section 1396a (a)(10)(A)(ii)(XVII) without regard to  
165 income or assets.

166 2. Rules and regulations to implement this section shall be promulgated in accordance  
167 with section 431.064, RSMo, and chapter 536, RSMo. Any rule or portion of a rule, as that term  
168 is defined in section 536.010, RSMo, that is created under the authority delegated in this section  
169 shall become effective only if it complies with and is subject to all of the provisions of chapter  
170 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
171 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
172 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are  
173 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
174 or adopted after August 28, 2002, shall be invalid and void.

175 3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance  
176 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the last six months  
177 immediately preceding the month in which such family became ineligible for such assistance



178 because of increased income from employment shall, while a member of such family is  
179 employed, remain eligible for MO HealthNet benefits for four calendar months following the  
180 month in which such family would otherwise be determined to be ineligible for such assistance  
181 because of income and resource limitation. After April 1, 1990, any family receiving aid  
182 pursuant to 42 U.S.C. 601, et seq., as amended, in at least three of the six months immediately  
183 preceding the month in which such family becomes ineligible for such aid, because of hours of  
184 employment or income from employment of the caretaker relative, shall remain eligible for MO  
185 HealthNet benefits for six calendar months following the month of such ineligibility as long as  
186 such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received  
187 such medical assistance during the entire six-month period described in this section and which  
188 meets reporting requirements and income tests established by the division and continues to  
189 include a child as provided in 42 U.S.C. 1396r-6 shall receive MO HealthNet benefits without  
190 fee for an additional six months. The MO HealthNet division may provide by rule and as  
191 authorized by annual appropriation the scope of MO HealthNet coverage to be granted to such  
192 families.

193 4. When any individual has been determined to be eligible for MO HealthNet benefits,  
194 such medical assistance will be made available to him or her for care and services furnished in  
195 or after the third month before the month in which he made application for such assistance if  
196 such individual was, or upon application would have been, eligible for such assistance at the time  
197 such care and services were furnished; provided, further, that such medical expenses remain  
198 unpaid.

199 5. The department of social services may apply to the federal Department of Health and  
200 Human Services for a MO HealthNet waiver amendment to the Section 1115 demonstration  
201 waiver or for any additional MO HealthNet waivers necessary not to exceed one million dollars  
202 in additional costs to the state, unless subject to appropriation or directed by statute, but in no  
203 event shall such waiver applications or amendments seek to waive the services of a rural health  
204 clinic or a federally qualified health center as defined in 42 U.S.C. 1396d(l)(1) and (2) or the  
205 payment requirements for such clinics and centers as provided in 42 U.S.C. 1396a(a)(15) and  
206 1396a(bb) unless such waiver application is approved by the oversight committee created in  
207 section 208.955. A request for such a waiver so submitted shall only become effective by  
208 executive order not sooner than ninety days after the final adjournment of the session of the  
209 general assembly to which it is submitted, unless it is disapproved within sixty days of its  
210 submission to a regular session by a senate or house resolution adopted by a majority vote of the  
211 respective elected members thereof, unless the request for such a waiver is made subject to  
212 appropriation or directed by statute.

213           6. Notwithstanding any other provision of law to the contrary, in any given fiscal year,  
214 any persons made eligible for MO HealthNet benefits under subdivisions (1) to (22) of  
215 subsection 1 of this section shall only be eligible if annual appropriations are made for such  
216 eligibility. This subsection shall not apply to classes of individuals listed in 42 U.S.C. Section  
217 1396a(a)(10)(A)(i).

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