

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1877

98TH GENERAL ASSEMBLY

5404H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.110, 211.031, and 211.036, RSMo, and to enact in lieu thereof four new sections relating to the children's division.

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

Section A. Sections 210.110, 211.031, and 211.036, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 210.110, 210.118, 211.031, and
3 211.036, to read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the
2 following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,
5 except that discipline including spanking, administered in a reasonable manner, shall not be
6 construed to be abuse;

7 (2) "Assessment and treatment services for children under ten years old", an approach
8 to be developed by the children's division which will recognize and treat the specific needs of
9 at-risk and abused or neglected children under the age of ten. The developmental and medical
10 assessment may be a broad physical, developmental, and mental health screening to be
11 completed within thirty days of a child's entry into custody and every six months thereafter as
12 long as the child remains in care. Screenings may be offered at a centralized location and
13 include, at a minimum, the following:

14 (a) Complete physical to be performed by a pediatrician familiar with the effects of abuse
15 and neglect on young children;

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 (b) Developmental, behavioral, and emotional screening in addition to early periodic
17 screening, diagnosis, and treatment services, including a core set of standardized and recognized
18 instruments as well as interviews with the child and appropriate caregivers. The screening
19 battery may be performed by a licensed mental health professional familiar with the effects of
20 abuse and neglect on young children, who will then serve as the liaison between all service
21 providers in ensuring that needed services are provided. Such treatment services may include
22 in-home services, out-of-home placement, intensive twenty-four-hour treatment services, family
23 counseling, parenting training and other best practices. Children whose screenings indicate an
24 area of concern may complete a comprehensive, in-depth health, psychodiagnostic, or
25 developmental assessment within sixty days of entry into custody;

26 (3) "Central registry", a registry of persons where the division has found probable cause
27 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
28 or a court has substantiated through court adjudication that the individual has committed child
29 abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to
30 section 565.020, 565.021, 565.023, 565.024 [or] , 565.050, **566.030, 566.060, or 567.050** if the
31 victim is a child less than eighteen years of age[, section 566.030 or 566.060 if the victim is a
32 child less than eighteen years of age], or **any** other crime pursuant to chapter 566 if the victim
33 is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older,
34 [section 567.050 if the victim is a child less than eighteen years of age,] **a crime under** section
35 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, [or] 568.090, [section] **573.023, 573.025**
36 [or] , 573.035, **573.037, 573.040, 573.200, or 573.205**, or an attempt to commit any such crimes.
37 Any persons placed on the registry prior to August 28, 2004, shall remain on the registry for the
38 duration of time required by section 210.152;

39 (4) "Child", any person, regardless of physical or mental condition, under eighteen years
40 of age;

41 (5) "Children's services providers and agencies", any public, quasi-public, or private
42 entity with the appropriate and relevant training and expertise in delivering services to children
43 and their families as determined by the children's division, and capable of providing direct
44 services and other family services for children in the custody of the children's division or any
45 such entities or agencies that are receiving state moneys for such services;

46 (6) "Director", the director of the Missouri children's division within the department of
47 social services;

48 (7) "Division", the Missouri children's division within the department of social services;

49 (8) "Family assessment and services", an approach to be developed by the children's
50 division which will provide for a prompt assessment of a child who has been reported to the
51 division as a victim of abuse or neglect by a person responsible for that child's care, custody or

52 control and of that child's family, including risk of abuse and neglect and, if necessary, the
53 provision of community-based services to reduce the risk and support the family;

54 (9) "Family support team meeting" or "team meeting", a meeting convened by the
55 division or children's services provider in behalf of the family and/or child for the purpose of
56 determining service and treatment needs, determining the need for placement and developing a
57 plan for reunification or other permanency options, determining the appropriate placement of the
58 child, evaluating case progress, and establishing and revising the case plan;

59 (10) "Investigation", the collection of physical and verbal evidence to determine if a
60 child has been abused or neglected;

61 (11) "Jail or detention center personnel", employees and volunteers working in any
62 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
63 provided to persons who are being held under custody of the law;

64 (12) "Neglect", failure to provide, by those responsible for the care, custody, and control
65 of the child, the proper or necessary support, education as required by law, nutrition or medical,
66 surgical, or any other care necessary for the child's well-being;

67 (13) "Preponderance of the evidence", that degree of evidence that is of greater weight
68 or more convincing than the evidence which is offered in opposition to it or evidence which as
69 a whole shows the fact to be proved to be more probable than not;

70 (14) "Probable cause", available facts when viewed in the light of surrounding
71 circumstances which would cause a reasonable person to believe a child was abused or
72 neglected;

73 (15) "Report", the communication of an allegation of child abuse or neglect to the
74 division pursuant to section 210.115;

75 (16) "Those responsible for the care, custody, and control of the child", those included
76 but not limited to the parents or guardian of a child, other members of the child's household, or
77 those exercising supervision over a child for any part of a twenty-four-hour day. Those
78 responsible for the care, custody and control shall also include any adult who, based on
79 relationship to the parents of the child, members of the child's household or the family, has
80 access to the child.

**210.118. 1. In any action under chapter 210 or 211 in which the court finds by a
2 preponderance of the evidence that a party is responsible for child abuse or neglect, as
3 those terms are defined in section 210.110, the clerk shall send a certified copy of the
4 judgment or order to the children's division and to the appropriate prosecuting attorney.
5 Upon receipt of the order, the children's division shall list the individual as a perpetrator
6 of child abuse or neglect in the central registry.**

7 2. In every case in which the person has pled guilty to or been found guilty of:

- 8 **(1) A crime under section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030,**
9 **566.060, or 567.050 and the victim is a child under eighteen years of age;**
10 **(2) Any other crime in chapter 566 if the victim is a child under eighteen years of**
11 **age and the perpetrator is twenty-one years of age or older;**
12 **(3) A crime under section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080,**
13 **568.090, 573.023, 573.025, 573.035, 573.037, 573.040, 573.200, or 573.205; or**
14 **(4) An attempt to commit any such crimes**

15

16 **the court shall enter an order directing the children's division to list the individual as a**
17 **perpetrator of child abuse or neglect in the central registry. The clerk shall send a certified**
18 **copy of the order to the children's division. Upon receipt of the order, the children's**
19 **division shall list the individual as a perpetrator of child abuse or neglect in the central**
20 **registry.**

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family
2 court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have
3 exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or
5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child
7 or person seventeen years of age, neglect or refuse to provide proper support, education which
8 is required by law, medical, surgical or other care necessary for his or her well-being; except that
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or
10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody
13 or support; [or]

14 (c) The child or person seventeen years of age was living in a room, building or other
15 structure at the time such dwelling was found by a court of competent jurisdiction to be a public
16 nuisance pursuant to section 195.130; **or**

17 (d) The child or person seventeen years of age is a child in need of mental health services
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who is
21 alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without
23 justification absent from school; [or]

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other
25 custodian and is beyond their control; [or]

26 (c) The child is habitually absent from his or her home without sufficient cause,
27 permission, or justification; [or]

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance
33 or regulation, the violation of which does not constitute a felony, or any child who is alleged to
34 have violated a state or municipal ordinance or regulation prohibiting possession or use of any
35 tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or
42 regulation, the violation of which does not constitute a felony, and except that the juvenile court
43 shall have concurrent jurisdiction with the municipal court over any child who is alleged to have
44 violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent
45 jurisdiction with the circuit court on any child who is alleged to have violated a state or
46 municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship
49 of the department of social services as provided by law; [and]

50 (6) Involving an order of protection pursuant to chapter 455 when the respondent is less
51 than seventeen years of age; **and**

52 **(7) Involving any youth for whom a petition to return the youth to children's**
53 **division custody has been filed under section 211.036.**

54 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person
55 seventeen years of age who resides in a county of this state shall be made as follows:

56 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
57 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
58 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving

59 court, to the county of the child's residence or the residence of the person seventeen years of age
60 for future action;

61 (2) Upon the motion of any party or on its own motion prior to final disposition on the
62 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
63 a child or person seventeen years of age to the court located in the county of the child's residence
64 or the residence of the person seventeen years of age, or the county in which the offense pursuant
65 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

66 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
67 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
68 of a child or person seventeen years of age to the court located in the county of the child's
69 residence or the residence of the person seventeen years of age for further action with the prior
70 consent of the receiving court;

71 (4) Upon motion of any party or upon its own motion at any time following a judgment
72 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
73 may place the child or person seventeen years of age under the supervision of another juvenile
74 court within or without the state pursuant to section 210.570 with the consent of the receiving
75 court;

76 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
77 court having jurisdiction shall grant one change of judge pursuant to Missouri supreme court
78 rules;

79 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or
80 person seventeen years of age, certified copies of all legal and social documents and records
81 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the
82 transfer.

83 3. In any proceeding involving any child or person seventeen years of age taken into
84 custody in a county other than the county of the child's residence or the residence of a person
85 seventeen years of age, the juvenile court of the county of the child's residence or the residence
86 of a person seventeen years of age shall be notified of such taking into custody within
87 seventy-two hours.

88 4. When an investigation by a juvenile officer pursuant to this section reveals that the
89 only basis for action involves an alleged violation of section 167.031 involving a child who
90 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child
91 to verify that the child is being home schooled and not in violation of section 167.031 before
92 making a report of such a violation. Any report of a violation of section 167.031 made by a
93 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting
94 attorney of the county where the child legally resides.

95 5. The disability or disease of a parent shall not constitute a basis for a determination that
96 a child is a child in need of care or for the removal of custody of a child from the parent without
97 a specific showing that there is a causal relation between the disability or disease and harm to
98 the child.

211.036. **1.** If a youth under the age of twenty-one is released from the custody of the
2 children's division and after such release it appears that it would be in such youth's best interest
3 to have his or her custody returned to the children's division, the juvenile officer, the children's
4 division or the youth may petition the court to return custody of such youth to the division until
5 the youth is twenty-one years of age. **The petition shall be filed in the court that previously**
6 **exercised authority over the youth under section 211.031, in the court in the county where**
7 **the youth resides, or in the court of an adjacent county. In deciding if it is in the best**
8 **interests of the youth to be returned to the custody of the children's division under this**
9 **section, the court shall consider the following factors:**

- 10 **(1) The circumstances of the youth;**
11 **(2) Whether the children's division has services or programs in place that will**
12 **benefit the youth and assist the youth in transitioning to self-sufficiency; and**
13 **(3) Whether the youth has the commitment to fully cooperate with the children's**
14 **division in developing and implementing a case plan.**

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16 **The court shall not return a youth to the custody of the children's division who has been**
17 **committed to the custody of another agency; who is under a legal guardianship; or who has**
18 **pled guilty to or been found guilty of a felony criminal offense.**

19 **2. The youth shall cooperate with the case plan developed for the youth by the**
20 **children's division in consultation with the youth.**

21 **3. For purposes of this section, a "youth" is any person eighteen years of age or**
22 **older and under twenty-one years of age who was in the custody of the children's division**
23 **in foster care at any time in the two-year period preceding the youth's eighteenth birthday.**

24 **4. The court may, upon motion of the children's division or the youth, terminate**
25 **care and supervision before the youth's twenty-first birthday if the court finds the**
26 **children's division does not have services available for the youth, the youth no longer needs**
27 **services, or if the youth declines to cooperate with the case plan.**

28 **5. The youth, at the youth's discretion, may request to be appointed a guardian ad**
29 **litem. If a guardian ad litem is appointed, he or she shall serve under section 210.160.**

30 **6. The court shall hold review hearings as necessary, but in no event less than once**
31 **every six months for as long as the youth is in the custody of the children's division.**

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