

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 260, Page 1, Section A, Line 2, by
2 inserting after all of said section and line the following:

3
4 "210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the
5 following terms mean:

6 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other
7 than by accidental means by those responsible for the child's care, custody, and control, except that
8 discipline including spanking, administered in a reasonable manner, shall not be construed to be
9 abuse. Victims of abuse shall also include any victims of sex trafficking or severe forms of
10 trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10);

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

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

19 (b) Developmental, behavioral, and emotional screening in addition to early periodic
20 screening, diagnosis, and treatment services, including a core set of standardized and recognized
21 instruments as well as interviews with the child and appropriate caregivers. The screening battery
22 may be performed by a licensed mental health professional familiar with the effects of abuse and
23 neglect on young children, who will then serve as the liaison between all service providers in
24 ensuring that needed services are provided. Such treatment services may include in-home services,
25 out-of-home placement, intensive twenty-four-hour treatment services, family counseling, parenting
26 training and other best practices.

27
28 Children whose screenings indicate an area of concern may complete a comprehensive, in-depth
29 health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

30 (3) "Central registry", a registry of persons where the division has found probable cause to
31 believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, or a
32 court has substantiated through court adjudication that the individual has committed child abuse or
33 neglect or the person has pled guilty or has been found guilty of a crime pursuant to section
34 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or 567.050 if the victim is a child
35 less than eighteen years of age, or any other crime pursuant to chapter 566 if the victim is a child
36 less than eighteen years of age and the perpetrator is twenty-one years of age or older, a crime under

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1 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, 568.090, 573.023, 573.025,
 2 573.035, 573.037, 573.040, 573.200, or 573.205, or an attempt to commit any such crimes. Any
 3 persons placed on the registry prior to August 28, 2004, shall remain on the registry for the duration
 4 of time required by section 210.152;

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

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

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

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

15 (8) "Family assessment and services", an approach to be developed by the children's
 16 division which will provide for a prompt assessment of a child who has been reported to the division
 17 as a victim of abuse or neglect by a person responsible for that child's care, custody or control and
 18 of that child's family, including risk of abuse and neglect and, if necessary, the provision of
 19 community-based services to reduce the risk and support the family;

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

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

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

30 (12) "Neglect", failure to provide, by those responsible for the care, custody, and control of
 31 the child, the proper or necessary support, education as required by law, nutrition or medical,
 32 surgical, or any other care necessary for the child's well-being. Victims of neglect shall also include
 33 any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C.
 34 78 Section 7102(9)-(10);

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

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

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

42 (16) "Those responsible for the care, custody, and control of the child", ~~[those included but~~
 43 ~~not limited to]~~ includes, but is not limited to:

44 (a) The parents or ~~[guardian]~~ legal guardians of a child~~[-]~~ ;

45 (b) Other members of the child's household~~[-, or]~~ ;

46 (c) Those exercising supervision over a child for any part of a twenty-four-hour day~~[-~~
 47 ~~Those responsible for the care, custody and control shall also include]~~ ;

48 (d) Any ~~[adult]~~ person who~~[-]~~ has access to the child based on relationship to the parents of

1 the child~~[-]~~ or members of the child's household or the family~~[-has access to the child]~~ ; or

2 (e) Any person who takes control of the child by deception, force, or coercion.

3 210.152. 1. All identifying information, including telephone reports reported pursuant to
4 section 210.145, relating to reports of abuse or neglect received by the division shall be retained by
5 the division and removed from the records of the division as follows:

6 (1) For investigation reports contained in the central registry, identifying information shall
7 be retained by the division;

8 (2) (a) For investigation reports initiated against a person required to report pursuant to
9 section 210.115, where insufficient evidence of abuse or neglect is found by the division and where
10 the division determines the allegation of abuse or neglect was made maliciously, for purposes of
11 harassment or in retaliation for the filing of a report by a person required to report, identifying
12 information shall be expunged by the division within forty-five days from the conclusion of the
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or neglect is found by the
15 division and where the division determines the allegation of abuse or neglect was made maliciously,
16 for purposes of harassment or in retaliation for the filing of a report, identifying information shall be
17 expunged by the division within forty-five days from the conclusion of the investigation;

18 (c) For investigation reports initiated by a person required to report under section 210.115,
19 where insufficient evidence of abuse or neglect is found by the division, identifying information
20 shall be retained for five years from the conclusion of the investigation. For all other investigation
21 reports where insufficient evidence of abuse or neglect is found by the division, identifying
22 information shall be retained for two years from the conclusion of the investigation. Such reports
23 shall include any exculpatory evidence known by the division, including exculpatory evidence
24 obtained after the closing of the case. At the end of such time period, the identifying information
25 shall be removed from the records of the division and destroyed;

26 (d) For investigation reports where the identification of the specific perpetrator or
27 perpetrators can not be substantiated and the division has specific evidence to determine that a child
28 was abused or neglected, the division shall retain the report and all identifying information but shall
29 not place an unknown perpetrator on the central registry. The division shall retain all identifying
30 information for the purpose of utilizing such information in subsequent investigations or family
31 assessments of the same child, the child's family, or members of the child's household. The division
32 shall retain and disclose information and findings in the same manner as the division retains and
33 discloses family assessments. If the division made a finding of abuse or neglect against an unknown
34 perpetrator prior to August 28, 2017, the division shall remove the unknown perpetrator from the
35 central registry but shall retain and utilize all identifying information as otherwise provided in this
36 section;

37 (3) For reports where the division uses the family assessment and services approach,
38 identifying information shall be retained by the division;

39 (4) For reports in which the division is unable to locate the child alleged to have been
40 abused or neglected, identifying information shall be retained for ten years from the date of the
41 report and then shall be removed from the records of the division.

42 2. Within ninety days, or within one hundred twenty days in cases involving sexual abuse,
43 or until the division's investigation is complete in cases involving a child fatality or near-fatality,
44 after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the
45 report and the parents of the child named in the report, if the alleged perpetrator is not a parent,
46 shall be notified in writing of any determination made by the division based on the investigation.
47 The notice shall advise either:

48 (1) That the division has determined by a probable cause finding prior to August 28, 2004,

1 or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that
2 the division shall retain all identifying information regarding the abuse or neglect; that such
3 information shall remain confidential and will not be released except to law enforcement agencies,
4 prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has
5 sixty days from the date of receipt of the notice to seek reversal of the division's determination
6 through a review by the child abuse and neglect review board as provided in subsection 4 of this
7 section; ~~[or]~~

8 (2) That the division has not made a probable cause finding or determined by a
9 preponderance of the evidence that abuse or neglect exists; or

10 (3) The division has been unable to determine the identity of the perpetrator of the abuse or
11 neglect. The notice shall also inform the child's parents and legal guardian that the division shall
12 retain, utilize, and disclose all information and findings as provided in family assessment and
13 services cases.

14 3. The children's division may reopen a case for review ~~[at the request of the alleged~~
15 ~~perpetrator, the alleged victim, or the office of the child advocate]~~ if new, specific, and credible
16 evidence is obtained ~~[that the division's decision was based on fraud or misrepresentation of~~
17 ~~material facts relevant to the division's decision and there is credible evidence that absent such fraud~~
18 ~~or misrepresentation the division's decision would have been different. If the alleged victim is~~
19 ~~under the age of eighteen, the request for review may be made by the alleged victim's parent, legal~~
20 ~~custodian, or legal guardian. All requests to reopen an investigation for review shall be made within~~
21 ~~a reasonable time and not more than one year after the children's division made its decision. The~~
22 ~~division shall not reopen a case for review based on any information which the person requesting~~
23 ~~the review knew, should have known, or could by the exercise of reasonable care have known~~
24 ~~before the date of the division's final decision in the case, unless the person requesting the review~~
25 ~~shows by a preponderance of the evidence that he or she could not have provided such information~~
26 ~~to the division before the date of the division's final decision in the case. Any person, other than the~~
27 ~~office of the child advocate, who makes a request to reopen a case for review based on facts which~~
28 ~~the person knows to be false or misleading or who acts in bad faith or with the intent to harass the~~
29 ~~alleged victim or perpetrator shall not have immunity from any liability, civil or criminal, for~~
30 ~~providing the information and requesting that the division reopen the investigation. Any person~~
31 ~~who makes a request to reopen an investigation based on facts which the person knows to be false~~
32 ~~shall be guilty of a class A misdemeanor. The children's division shall not reopen an investigation~~
33 ~~under any circumstances while the case is pending before a court of this state nor when a court has~~
34 ~~entered a final judgment after de novo judicial review pursuant to this section].~~

35 4. Any person named in an investigation as a perpetrator who is aggrieved by a
36 determination of abuse or neglect by the division as provided in this section may seek an
37 administrative review by the child abuse and neglect review board pursuant to the provisions of
38 section 210.153. Such request for review shall be made within sixty days of notification of the
39 division's decision under this section. In those cases where criminal charges arising out of facts of
40 the investigation are pending, the request for review shall be made within sixty days from the court's
41 final disposition or dismissal of the charges.

42 5. In any such action for administrative review, the child abuse and neglect review board
43 shall sustain the division's determination if such determination was supported by evidence of
44 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after
45 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect
46 review board hearing shall be closed to all persons except the parties, their attorneys and those
47 persons providing testimony on behalf of the parties.

48 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect

1 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the
2 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in
3 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident
4 of the state, proper venue shall be in Cole County. The case may be assigned to the family court
5 division where such a division has been established. The request for a judicial review shall be made
6 within sixty days of notification of the decision of the child abuse and neglect review board
7 decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the
8 opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses
9 except the alleged victim or the reporter. However, the circuit court shall have the discretion to
10 allow the parties to submit the case upon a stipulated record.

11 7. In any such action for administrative review, the child abuse and neglect review board
12 shall notify the child or the parent, guardian or legal representative of the child that a review has
13 been requested."; and

14
15 Further amend said bill, Page 2, Section 210.565, Line 51, by inserting after all of said section and
16 line the following:

17
18 "Section B. Because immediate action is necessary to prevent any loss of federal funding for
19 child welfare services in Missouri, the repeal and reenactment of section 210.110 of section A of
20 this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and
21 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the
22 repeal and reenactment of section 210.110 of section A of this act shall be in full force and effect
23 upon its passage and approval."; and

24
25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.