

SECOND REGULAR SESSION

# HOUSE BILL NO. 1767

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ARTHUR.

5489H.011

D. ADAM CRUMBLISS, Chief Clerk

## AN ACT

To repeal sections 210.110 and 210.112, RSMo, and to enact in lieu thereof two new sections relating to treatment services for children entering foster care.

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

Section A. Sections 210.110 and 210.112, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.110 and 210.112, to read as follows:

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

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

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

(a) Complete physical to be performed by a pediatrician familiar with the effects of abuse 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

78 (16) "Those responsible for the care, custody, and control of the child", includes, but is  
79 not limited to:

80 (a) The parents or legal guardians of a child;

81 (b) Other members of the child's household;

82 (c) Those exercising supervision over a child for any part of a twenty-four-hour day;

83 (d) Any person who has access to the child based on relationship to the parents of the  
84 child or members of the child's household or the family; or

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

210.112. 1. It is the policy of this state and its agencies to implement a foster care and  
2 child protection and welfare system focused on providing the highest quality of services and

3 outcomes for children and their families. The department of social services shall implement such  
4 system subject to the following principles:

5 (1) The safety and welfare of children is paramount;

6 (2) Providers of direct services to children and their families will be evaluated in a  
7 uniform and consistent basis;

8 (3) Services to children and their families shall be provided in a timely manner to  
9 maximize the opportunity for successful outcomes; and

10 (4) Any provider of direct services to children and families shall have the appropriate  
11 and relevant training, education, and expertise to provide the highest quality of services possible  
12 which shall be consistent with the federal standards, but not less than the standards and policies  
13 used by the children's division as of January 1, 2004.

14 2. On or before July 1, 2005, and subject to appropriations, the children's division and  
15 any other state agency deemed necessary by the division shall, in consultation with the  
16 community and providers of services, enter into and implement contracts with qualified  
17 children's services providers and agencies to provide a comprehensive and deliberate system of  
18 service delivery for children and their families. Contracts shall be awarded through a  
19 competitive process and provided by children's services providers and agencies currently  
20 contracting with the state to provide such services and by public and private not-for-profit or  
21 limited liability corporations owned exclusively by not-for-profit corporations children's services  
22 providers and agencies which have:

23 (1) A proven record of providing child welfare services within the state of Missouri  
24 which shall be consistent with the federal standards, but not less than the standards and policies  
25 used by the children's division as of January 1, 2004; and

26 (2) The ability to provide a range of child welfare services, which may include case  
27 management services, family-centered services, foster and adoptive parent recruitment and  
28 retention, residential care, in-home services, foster care services, adoption services, relative care  
29 case management, planned permanent living services, and family reunification services.

30

31 No contracts shall be issued for services related to the child abuse and neglect hotline,  
32 investigations of alleged abuse and neglect, and initial family assessments. Any contracts  
33 entered into by the division shall be in accordance with all federal laws and regulations, and shall  
34 not result in the loss of federal funding. Such children's services providers and agencies under  
35 contract with the division shall be subject to all federal, state, and local laws and regulations  
36 relating to the provision of such services, and shall be subject to oversight and inspection by  
37 appropriate state agencies to assure compliance with standards which shall be consistent with

38 the federal standards, but not less than the standards and policies used by the children's division  
39 as of January 1, 2004.

40 3. In entering into and implementing contracts under subsection 2 of this section, the  
41 division shall consider and direct their efforts towards geographic areas of the state, including  
42 Greene County, where eligible direct children's services providers and agencies are currently  
43 available and capable of providing a broad range of services, including case management  
44 services, family-centered services, foster and adoptive parent recruitment and retention,  
45 residential care, family preservation services, foster care services, adoption services, relative care  
46 case management, other planned living arrangements, and family reunification services  
47 consistent with federal guidelines. Nothing in this subsection shall prohibit the division from  
48 contracting on an as-needed basis for any individual child welfare service listed above.

49 4. The contracts entered into under this section shall assure that:

50 (1) Child welfare services shall be delivered to a child and the child's family by  
51 professionals who have substantial and relevant training, education, or competencies otherwise  
52 demonstrated in the area of children and family services;

53 (2) Children's services providers and agencies shall be evaluated by the division based  
54 on objective, consistent, and performance-based criteria;

55 (3) Any case management services provided shall be subject to a case management plan  
56 established under subsection 5 of this section which is consistent with all relevant federal  
57 guidelines. The case management plan shall focus on attaining permanency in children's living  
58 conditions to the greatest extent possible and shall include concurrent planning and independent  
59 living where appropriate in accordance with the best interests of each child served and  
60 considering relevant factors applicable to each individual case as provided by law, including:

61 (a) The interaction and interrelationship of a child with the child's foster parents,  
62 biological or adoptive parents, siblings, and any other person who may significantly affect the  
63 child's best interests;

64 (b) A child's adjustment to his or her foster home, school, and community;

65 (c) The mental and physical health of all individuals involved, including any history of  
66 abuse of or by any individuals involved;

67 (d) The needs of the child for a continuing relationship with the child's biological or  
68 adoptive parents and the ability and willingness of the child's biological or adoptive parents to  
69 actively perform their functions as parents with regard to the needs of the child; and

70 (e) For any child ~~[under ten years old]~~, treatment services may be available as defined  
71 in section 210.110. Assessments, as defined in section 210.110, may occur to determine which  
72 treatment services best meet the child's psychological and social needs. When the assessment  
73 indicates that a child's needs can be best resolved by intensive twenty-four-hour treatment

74 services, the division will locate, contract, and place the child with the appropriate organizations.  
75 This placement will be viewed as the least restrictive for the child based on the assessment;

76 (4) The delivery system shall have sufficient flexibility to take into account children and  
77 families on a case-by-case basis;

78 (5) The delivery system shall provide a mechanism for the assessment of strategies to  
79 work with children and families immediately upon entry into the system to maximize  
80 permanency and successful outcome in the shortest time possible and shall include concurrent  
81 planning. Outcome measures for private and public agencies shall be equal for each program;  
82 and

83 (6) Payment to the children's services providers and agencies shall be made based on the  
84 reasonable costs of services, including responsibilities necessary to execute the contract.  
85 Contracts shall provide incentives in addition to the costs of services provided in recognition of  
86 accomplishment of the case goals and the corresponding cost savings to the state. The division  
87 shall promulgate rules to implement the provisions of this subdivision.

88 5. Contracts entered into under this section shall require that a case management plan  
89 consistent with all relevant federal guidelines shall be developed for each child at the earliest  
90 time after the initial investigation, but in no event longer than fourteen days after the initial  
91 investigation or referral to the contractor by the division. Such case management plan shall be  
92 presented to the court and be the foundation of service delivery to the child and family. The case  
93 management plan shall, at a minimum, include:

94 (1) An outcome target based on the child and family situation achieving permanency or  
95 independent living, where appropriate;

96 (2) Services authorized and necessary to facilitate the outcome target;

97 (3) Time frames in which services will be delivered; and

98 (4) Necessary evaluations and reporting.  
99

100 In addition to any visits and assessments required under case management, services to be  
101 provided by a public or private children's services provider under the specific case management  
102 plan may include family-centered services, foster and adoptive parent recruitment and retention,  
103 residential care, in-home services, foster care services, adoption services, relative care case  
104 services, planned permanent living services, and family reunification services. In all cases, an  
105 appropriate level of services shall be provided to the child and family after permanency is  
106 achieved to assure a continued successful outcome.

107 6. The division shall convene a task force to review the recruitment, licensing and  
108 retention of foster and adoptive parents statewide. In addition to representatives of the division  
109 and department, the task force shall include representatives of the private sector and faith-based

110 community which provide recruitment and licensure services. The purpose of the task force shall  
111 and will be to study the extent to which changes in the system of recruiting, licensing, and  
112 retaining foster and adoptive parents would enhance the effectiveness of the system statewide.  
113 The task force shall develop a report of its findings with recommendations by December 1, 2011,  
114 and provide copies of the report to the general assembly and to the governor.

115 7. On or before July 15, 2006, and each July fifteenth thereafter that the project is in  
116 operation, the division shall submit a report to the general assembly which shall include:

117 (1) Details about the specifics of the contracts, including the number of children and  
118 families served, the cost to the state for contracting such services, the current status of the  
119 children and families served, an assessment of the quality of services provided and outcomes  
120 achieved, and an overall evaluation of the project; and

121 (2) Any recommendations regarding the continuation or possible statewide  
122 implementation of such project; and

123 (3) Any information or recommendations directly related to the provision of direct  
124 services for children and their families that any of the contracting children's services providers  
125 and agencies request to have included in the report.

126 8. The division shall accept as prima facie evidence of completion of the requirements  
127 for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the  
128 following nationally recognized bodies: the Council on Accreditation of Services, Children and  
129 Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on  
130 Accreditation of Rehabilitation Facilities. The division shall not require any further evidence  
131 of qualification for licensure if such proof of voluntary accreditation is submitted.

132 9. By February 1, 2005, the children's division shall promulgate and have in effect rules  
133 to implement the provisions of this section and, pursuant to this section, shall define  
134 implementation plans and dates. Any rule or portion of a rule, as that term is defined in section  
135 536.010, that is created under the authority delegated in this section shall become effective only  
136 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
137 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
138 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
139 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
140 and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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