

SECOND REGULAR SESSION

# HOUSE BILL NO. 1414

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SOLON.

3201H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 210.152, 210.160, 210.564, and 210.566, RSMo, and to enact in lieu thereof four new sections relating to the protection of children.

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

Section A. Sections 210.152, 210.160, 210.564, and 210.566, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 210.152, 210.160, 210.564,  
3 and 210.566, to read as follows:

210.152. 1. All information, including telephone reports reported pursuant to section  
2 210.145, relating to reports of abuse or neglect received by the division shall be retained by the  
3 division or removed from the records of the division as follows:

4 (1) For investigation reports contained in the central registry, the report and all  
5 information shall be retained by the division;

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

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

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.

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

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

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

36 (4) For reports in which the division is unable to locate the child alleged to have been  
37 abused or neglected, information shall be retained for eighteen years from the date of the report  
38 and then shall be removed from the records by the division.

39 **2. The division shall develop and use a child risk assessment of any report of child**  
40 **abuse or neglect received by the division.**

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

47 (1) That the division has determined by a probable cause finding prior to August 28,  
48 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists  
49 and that the division shall retain all information regarding the abuse or neglect; that such  
50 information shall remain confidential and will not be released except to law enforcement  
51 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged  
52 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's

53 determination through a review by the child abuse and neglect review board as provided in  
54 subsection 4 of this section;

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

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

61 ~~[3-]~~ 4. The children's division may reopen a case for review if new, specific, and credible  
62 evidence is obtained.

63 ~~[4-]~~ 5. Any person named in an investigation as a perpetrator who is aggrieved by a  
64 determination of abuse or neglect by the division as provided in this section may seek an  
65 administrative review by the child abuse and neglect review board pursuant to the provisions of  
66 section 210.153. Such request for review shall be made within sixty days of notification of the  
67 division's decision under this section. In those cases where criminal charges arising out of facts  
68 of the investigation are pending, the request for review shall be made within sixty days from the  
69 court's final disposition or dismissal of the charges.

70 ~~[5-]~~ 6. In any such action for administrative review, the child abuse and neglect review  
71 board shall sustain the division's determination if such determination was supported by evidence  
72 of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence  
73 after August 28, 2004, and is not against the weight of such evidence. The child abuse and  
74 neglect review board hearing shall be closed to all persons except the parties, their attorneys and  
75 those persons providing testimony on behalf of the parties.

76 ~~[6-]~~ 7. If the alleged perpetrator is aggrieved by the decision of the child abuse and  
77 neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit  
78 court in the county in which the alleged perpetrator resides and in circuits with split venue, in  
79 the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator  
80 is not a resident of the state, proper venue shall be in Cole County. The case may be assigned  
81 to the family court division where such a division has been established. The request for a  
82 judicial review shall be made within sixty days of notification of the decision of the child abuse  
83 and neglect review board decision. In reviewing such decisions, the circuit court shall provide  
84 the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator  
85 may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court  
86 shall have the discretion to allow the parties to submit the case upon a stipulated record.

87 [7-] 8. In any such action for administrative review, the child abuse and neglect review  
88 board shall notify the child or the parent, guardian or legal representative of the child that a  
89 review has been requested.

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

3 (1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165  
4 except proceedings under subsection [6] 7 of section 210.152, sections 210.700 to 210.760,  
5 sections 211.442 to 211.487, or sections 453.005 to 453.170, or proceedings to determine  
6 custody or visitation rights under sections 452.375 to 452.410; or

7 (2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent,  
8 and whose child is the subject of proceedings under sections 210.110 to 210.165, sections  
9 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170.

10 2. The judge, either sua sponte or upon motion of a party, may appoint a guardian ad  
11 litem to appear for and represent an abused or neglected child involved in proceedings arising  
12 under subsection [6] 7 of section 210.152.

13 3. The guardian ad litem shall be provided with all reports relevant to the case made to  
14 or by any agency or person, shall have access to all records of such agencies or persons relating  
15 to the child or such child's family members or placements of the child, and upon appointment  
16 by the court to a case, shall be informed of and have the right to attend any and all family support  
17 team meetings involving the child. Employees of the division, officers of the court, and  
18 employees of any agency involved shall fully inform the guardian ad litem of all aspects of the  
19 case of which they have knowledge or belief.

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

29 5. The guardian ad litem may be awarded a reasonable fee for such services to be set by  
30 the court. The court, in its discretion, may award such fees as a judgment to be paid by any party  
31 to the proceedings or from public funds. However, no fees as a judgment shall be taxed against  
32 a party or parties who have not been found to have abused or neglected a child or children. Such

33 an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem.  
34 Such final judgment shall be enforceable against the parties in accordance with chapter 513.

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

48 7. Any person appointed to perform guardian ad litem duties shall have completed a  
49 training program in permanency planning and shall advocate for timely court hearings whenever  
50 possible to attain permanency for a child as expeditiously as possible to reduce the effects that  
51 prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access  
52 to a court appointed attorney guardian ad litem should the circumstances of the particular case  
53 so require.

210.564. 1. This section shall be known and may be cited as the "Foster Care Bill of  
2 Rights".

3 2. The children's division shall provide every school-aged foster child and his or her  
4 foster parent with an age-appropriate orientation and explanation of the foster care bill of rights.  
5 Any children's division office, residential care facility, child placing agency, or other agency  
6 involved in the care and placement of foster children shall post the foster care bill of rights in the  
7 office, facility, or agency. The children's division shall also make the foster care bill of rights  
8 readily available and easily accessible online.

9 3. The foster care bill of rights shall be as follows:

10 (1) In all circumstances, the best interests of the child shall be the first priority of the  
11 children's division;

12 (2) Recognizing the importance of familial stability in foster care and adoption  
13 placement, it shall be the practice of the children's division, when appropriate, to support a child's  
14 return to the custody and care of the parents or guardians with whom the child resided  
15 immediately prior to state custody;

16 (3) When restoration of care and custody is not appropriate or possible, the children's  
17 division shall attempt to place the child with suitable relatives in accordance with section  
18 210.565;

19 (4) The children's division shall further support familial stability by ensuring continuity  
20 of foster placement, except in instances where cause for a change in a child's placement is  
21 reasonably found;

22 (5) The children's division shall work with each child in state custody to develop both  
23 a permanency plan and a case plan. These plans shall be developed within twelve months of a  
24 child's entrance into state custody. The permanency plan shall include the child's immediate and  
25 long-term placement goals, while the case plan shall address a child's specific medical and  
26 emotional needs;

27 (6) Recognizing the value of familial relationships in foster care and adoption settings,  
28 it shall be the practice of the children's division to place siblings in the same foster care, kinship,  
29 guardianship, or adoptive placement, unless doing so would be contrary to the safety or  
30 well-being of any of the siblings. If siblings are not placed together, it shall be the practice of  
31 the children's division to support regular visitation and communication between siblings in state  
32 custody, and between children in state custody and their parents and relatives, where not  
33 otherwise prohibited or against a child's best interests; and

34 (7) The children's division shall support all children ~~[twelve years of age or older]~~ in  
35 state custody to attend any hearings pertaining to the child's placement, custody, or care;  
36 ~~provided that the child is willing and able to attend such hearings, and that attending such~~  
37 ~~hearings is in the best interests of the child]~~ **if the court orders that the child be present at**  
38 **such hearings.**

210.566. 1. (1) The children's division and its contractors, recognizing that foster  
2 parents are not clients but rather are colleagues in the child welfare team, shall treat foster  
3 parents in a manner consistent with the National Association of Social Workers' ethical standards  
4 of conduct as described in its Social Workers' Ethical Responsibilities to Colleagues. Foster  
5 parents shall treat the children in their care, the child's birth family and members of the child  
6 welfare team in a manner consistent with their ethical responsibilities as professional team  
7 members.

8 (2) The children's division and its contractors shall provide written notification of the  
9 rights enumerated in this section at the time of initial licensure and at the time of each licensure  
10 renewal following the initial licensure period.

11 2. (1) The children's division and its contractors shall provide foster parents with  
12 regularly scheduled opportunities for preservice training, and regularly scheduled opportunities

13 for pertinent inservice training, as determined by the Missouri State Foster Care and Adoption  
14 Advisory Board.

15 (2) The children's division and its contractors shall provide to foster parents and potential  
16 adoptive parents, prior to placement, all pertinent information, including but not limited to full  
17 disclosure of all medical, psychological, and psychiatric conditions of the child, as well as  
18 information from previous placements that would indicate that the child or children may have  
19 a propensity to cause violence to any member of the foster family home. The foster parents shall  
20 be provided with any information regarding the child or the child's family, including but not  
21 limited to the case plan, any family history of mental or physical illness, sexual abuse of the child  
22 or sexual abuse perpetrated by the child, criminal background of the child or the child's family,  
23 fire-setting or other destructive behavior by the child, substance abuse by the child or child's  
24 family, or any other information which is pertinent to the care and needs of the child and to  
25 protect the foster or adoptive family. Knowingly providing false or misleading information to  
26 foster parents in order to secure placement shall be denoted in the caseworker's personnel file and  
27 shall be kept on record by the division.

28 (3) The children's division and its contractors shall arrange preplacement visits, except  
29 in emergencies.

30 (4) The foster parents may ask questions about the child's case plan, encourage a  
31 placement or refuse a placement without reprisal from the caseworker or agency. After a  
32 placement, the children's division and its contractors shall update the foster parents as new  
33 information about the child is gathered.

34 (5) Foster parents shall be informed in a timely manner by the children's division and its  
35 contractors of all team meetings and staffings concerning their licensure status or children placed  
36 in their homes, and shall be allowed to participate, consistent with section 210.761.

37 (6) The children's division and its contractors shall establish reasonably accessible  
38 respite care for children in foster care for short periods of time, jointly determined by foster  
39 parents and the child's caseworker pursuant to section 210.545. Foster parents shall follow all  
40 procedures established by the children's division and its contractors for requesting and using  
41 respite care.

42 (7) Foster parents shall treat all information received from the children's division and its  
43 contractors about the child and the child's family as confidential. Information necessary for the  
44 medical or psychiatric care of the child may be provided to the appropriate practitioners. Foster  
45 parents may share information necessary with school personnel in order to secure a safe and  
46 appropriate education for the child. Additionally, foster parents shall share information they may  
47 learn about the child and the child's family, and concerns that arise in the care of the child, with  
48 the caseworker and other members of the child welfare team. Recognizing that placement

49 changes are difficult for children, foster parents shall seek all necessary information, and  
50 participate in preplacement visits whenever possible, before deciding whether to accept a child  
51 for placement.

52         3. (1) Foster parents shall make decisions about the daily living concerns of the child,  
53 and shall be permitted to continue the practice of their own family values and routines while  
54 respecting the child's cultural heritage. All discipline shall be consistent with state laws and  
55 regulations. The children's division shall allow foster parents to help plan visitation between the  
56 child and the child's siblings or biological family. Visitations should be scheduled at a time that  
57 meets the needs of the child, the biological family members, and the foster family whenever  
58 possible. Recognizing that visitation with family members is an important right of children in  
59 foster care, foster parents shall be flexible and cooperative with regard to family visits. **The**  
60 **children's division shall not require foster parents to conduct supervised visits or be**  
61 **present during any supervised visits between the child and the child's siblings or biological**  
62 **family.**

63         (2) Foster parents shall provide care that is respectful of the child's cultural identity and  
64 needs. Recognizing that cultural competence can be learned, the children's division and their  
65 contractors shall provide foster parents with training that specifically addresses cultural needs  
66 of children, including but not limited to, information on skin and hair care, information on any  
67 specific religious or cultural practices of the child's biological family, and referrals to community  
68 resources for ongoing education and support.

69         (3) Foster parents shall recognize that the purpose of discipline is to teach and direct the  
70 behavior of the child, and ensure that it is administered in a humane and sensitive manner.  
71 Foster parents shall use discipline methods which are consistent with children's division policy.

72         4. (1) Consistent with state laws and regulations, the children's division and its  
73 contractors shall provide, upon request by the foster parents, information about a child's progress  
74 after the child leaves foster care.

75         (2) Except in emergencies, foster parents shall be given two weeks advance notice and  
76 a written statement of the reasons before a child is removed from their care. When requesting  
77 removal of a child from their home, foster parents shall give two weeks advance notice,  
78 consistent with division policy, to the child's caseworker, except in emergency situations.

79         (3) Recognizing the critical nature of attachment for children, if a child reenters the  
80 foster care system and is not placed in a relative home, the child's former foster parents shall be  
81 given first consideration for placement of the child.

82         (4) If a child becomes free for adoption while in foster care, the child's foster family shall  
83 be given preferential consideration as adoptive parents consistent with section 453.070.



84 (5) If a foster child becomes free for adoption and the foster parents desire to adopt the  
85 child, they shall inform the caseworker within sixty days of the caseworker's initial query. If they  
86 do not choose to pursue adoption, foster parents shall make every effort to support and encourage  
87 the child's placement in a permanent home, including but not limited to providing information  
88 on the history and care needs of the child and accommodating transitional visitation.

89 5. Foster parents shall be informed by the court no later than two weeks prior to all court  
90 hearings pertaining to a child in their care, and informed of their right to attend and participate,  
91 consistent with section 211.464.

92 6. The children's division and their contractors shall provide access to a fair and impartial  
93 grievance process to address licensure, case management decisions, and delivery of service  
94 issues. Foster parents shall have timely access to the child placement agency's appeals process,  
95 and shall be free from acts of retaliation when exercising the right to appeal.

96 7. The children's division and their contractors shall provide training to foster parents  
97 on the policies and procedures governing the licensure of foster homes, the provision of foster  
98 care, and the adoption process. Foster parents shall, upon request, be provided with written  
99 documentation of the policies of the children's division and their contractors. Per licensure  
100 requirements, foster parents shall comply with the policies of the child placement agency.

101 8. For purposes of this section, "foster parent" means a resource family providing care  
102 of children in state custody.

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