

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1414

100TH GENERAL ASSEMBLY

3201H.03P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.145 and 210.566, RSMo, and to enact in lieu thereof three new sections relating to the protection of children.

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

Section A. Sections 210.145 and 210.566, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.145, 210.566, and 211.135, to read as follows:

210.145. 1. The division shall develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. **(1)** The division shall utilize structured decision-making protocols, **including a standard risk assessment that shall be completed within seventy-two hours of the report of abuse or neglect**, for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall

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 promulgate rules regarding the structured decision-making protocols to be utilized for all child
18 abuse and neglect reports.

19 **(2) The director of the division and the office of state courts administrator shall**
20 **develop a joint safety assessment tool before December 31, 2020, and such tool shall be**
21 **implemented before January 1, 2022. The safety assessment tool shall replace the standard**
22 **risk assessment required under subdivision (1) of this subsection.**

23 3. Upon receipt of a report, the division shall determine if the report merits investigation,
24 including reports which if true would constitute a suspected violation of any of the following:
25 section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen
26 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,
27 or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the
28 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than
29 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 573.200, or
30 573.205, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such
31 crimes. The division shall immediately communicate all reports that merit investigation to its
32 appropriate local office and any relevant information as may be contained in the information
33 system. The local division staff shall determine, through the use of protocols developed by the
34 division, whether an investigation or the family assessment and services approach should be used
35 to respond to the allegation. The protocols developed by the division shall give priority to
36 ensuring the well-being and safety of the child.

37 4. The division may accept a report for investigation or family assessment if either the
38 child or alleged perpetrator resides in Missouri, may be found in Missouri, or if the incident
39 occurred in Missouri.

40 5. If the division receives a report in which neither the child nor the alleged perpetrator
41 resides in Missouri or may be found in Missouri and the incident did not occur in Missouri, the
42 division shall document the report and communicate it to the appropriate agency or agencies in
43 the state where the child is believed to be located, along with any relevant information or records
44 as may be contained in the division's information system.

45 6. When the child abuse and neglect hotline receives three or more calls, within a
46 seventy-two hour period, from one or more individuals concerning the same child, the division
47 shall conduct a review to determine whether the calls meet the criteria and statutory definition
48 for a child abuse and neglect report to be accepted. In conducting the review, the division shall
49 contact the hotline caller or callers in order to collect information to determine whether the calls
50 meet the criteria for harassment.

51 7. The local office shall contact the appropriate law enforcement agency immediately
52 upon receipt of a report which division personnel determine merits an investigation and provide

53 such agency with a detailed description of the report received. In such cases the local division
54 office shall request the assistance of the local law enforcement agency in all aspects of the
55 investigation of the complaint. The appropriate law enforcement agency shall either assist the
56 division in the investigation or provide the division, within twenty-four hours, an explanation
57 in writing detailing the reasons why it is unable to assist.

58 8. The local office of the division shall cause an investigation or family assessment and
59 services approach to be initiated in accordance with the protocols established in subsection 2 of
60 this section, except in cases where the sole basis for the report is educational neglect. If the
61 report indicates that educational neglect is the only complaint and there is no suspicion of other
62 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
63 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
64 investigation shall include direct observation of the subject child within twenty-four hours of the
65 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
66 observation. Callers to the child abuse and neglect hotline shall be instructed by the division's
67 hotline to call 911 in instances where the child may be in immediate danger. If the parents of the
68 child are not the alleged perpetrators, a parent of the child must be notified prior to the child
69 being interviewed by the division. No person responding to or investigating a child abuse and
70 neglect report shall call prior to a home visit or leave any documentation of any attempted visit,
71 such as business cards, pamphlets, or other similar identifying information if he or she has a
72 reasonable basis to believe the following factors are present:

- 73 (1) (a) No person is present in the home at the time of the home visit; and
74 (b) The alleged perpetrator resides in the home or the physical safety of the child may
75 be compromised if the alleged perpetrator becomes aware of the attempted visit;
76 (2) The alleged perpetrator will be alerted regarding the attempted visit; or
77 (3) The family has a history of domestic violence or fleeing the community.

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79 If the alleged perpetrator is present during a visit by the person responding to or investigating the
80 report, such person shall provide written material to the alleged perpetrator informing him or her
81 of his or her rights regarding such visit, including but not limited to the right to contact an
82 attorney. The alleged perpetrator shall be given a reasonable amount of time to read such written
83 material or have such material read to him or her by the case worker before the visit commences,
84 but in no event shall such time exceed five minutes; except that, such requirement to provide
85 written material and reasonable time to read such material shall not apply in cases where the
86 child faces an immediate threat or danger, or the person responding to or investigating the report
87 is or feels threatened or in danger of physical harm. If the abuse is alleged to have occurred in
88 a school or child care facility the division shall not meet with the child in any school building

89 or child-care facility building where abuse of such child is alleged to have occurred. When the
90 child is reported absent from the residence, the location and the well-being of the child shall be
91 verified. For purposes of this subsection, "child care facility" shall have the same meaning as
92 such term is defined in section 210.201.

93 9. The director of the division shall name at least one chief investigator for each local
94 division office, who shall direct the division response on any case involving a second or
95 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
96 investigator shall include verification of direct observation of the subject child by the division
97 and shall ensure information regarding the status of an investigation is provided to the public
98 school district liaison. The public school district liaison shall develop protocol in conjunction
99 with the chief investigator to ensure information regarding an investigation is shared with
100 appropriate school personnel. The superintendent of each school district shall designate a
101 specific person or persons to act as the public school district liaison. Should the subject child
102 attend a nonpublic school the chief investigator shall notify the school principal of the
103 investigation. Upon notification of an investigation, all information received by the public
104 school district liaison or the school shall be subject to the provisions of the federal Family
105 Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, and federal rule 34
106 C.F.R. Part 99.

107 10. The investigation shall include but not be limited to the nature, extent, and cause of
108 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
109 names and conditions of other children in the home, if any; the home environment and the
110 relationship of the subject child to the parents or other persons responsible for the child's care;
111 any indication of incidents of physical violence against any other household or family member;
112 and other pertinent data.

113 11. When a report has been made by a person required to report under section 210.115,
114 the division shall contact the person who made such report within forty-eight hours of the receipt
115 of the report in order to ensure that full information has been received and to obtain any
116 additional information or medical records, or both, that may be pertinent.

117 12. Upon completion of the investigation, if the division suspects that the report was
118 made maliciously or for the purpose of harassment, the division shall refer the report and any
119 evidence of malice or harassment to the local prosecuting or circuit attorney.

120 13. Multidisciplinary teams shall be used whenever conducting the investigation as
121 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
122 shall be used in providing protective or preventive social services, including the services of law
123 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
124 other agencies, both public and private.

125 14. For all family support team meetings involving an alleged victim of child abuse or
126 neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian
127 of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be
128 provided notice and be permitted to attend all such meetings. Family members, other than
129 alleged perpetrators, or other community informal or formal service providers that provide
130 significant support to the child and other individuals may also be invited at the discretion of the
131 parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian
132 or custodian and the foster parents may request that other individuals, other than alleged
133 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
134 attends such team meetings, the division or the convenor of the meeting shall provide such
135 persons with notice of all such subsequent meetings involving the child. Families may determine
136 whether individuals invited at their discretion shall continue to be invited.

137 15. If the appropriate local division personnel determine after an investigation has begun
138 that completing an investigation is not appropriate, the division shall conduct a family
139 assessment and services approach. The division shall provide written notification to local law
140 enforcement prior to terminating any investigative process. The reason for the termination of
141 the investigative process shall be documented in the record of the division and the written
142 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
143 any investigation by law enforcement.

144 16. If the appropriate local division personnel determines to use a family assessment and
145 services approach, the division shall:

146 (1) Assess any service needs of the family. The assessment of risk and service needs
147 shall be based on information gathered from the family and other sources;

148 (2) Provide services which are voluntary and time-limited unless it is determined by the
149 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
150 family refuses to accept the services. The division shall identify services for families where it
151 is determined that the child is at high risk of future abuse or neglect. The division shall
152 thoroughly document in the record its attempt to provide voluntary services and the reasons these
153 services are important to reduce the risk of future abuse or neglect to the child. If the family
154 continues to refuse voluntary services or the child needs to be protected, the division may
155 commence an investigation;

156 (3) Commence an immediate investigation if at any time during the family assessment
157 and services approach the division determines that an investigation, as delineated in sections
158 210.109 to 210.183, is required. The division staff who have conducted the assessment may
159 remain involved in the provision of services to the child and family;

160 (4) Document at the time the case is closed, the outcome of the family assessment and
161 services approach, any service provided and the removal of risk to the child, if it existed.

162 17. (1) Within forty-five days of an oral report of abuse or neglect, the local office shall
163 update the information in the information system. The information system shall contain, at a
164 minimum, the determination made by the division as a result of the investigation, identifying
165 information on the subjects of the report, those responsible for the care of the subject child and
166 other relevant dispositional information. The division shall complete all investigations within
167 forty-five days, unless good cause for the failure to complete the investigation is specifically
168 documented in the information system. Good cause for failure to complete an investigation shall
169 include, but not be limited to:

170 (a) The necessity to obtain relevant reports of medical providers, medical examiners,
171 psychological testing, law enforcement agencies, forensic testing, and analysis of relevant
172 evidence by third parties which has not been completed and provided to the division;

173 (b) The attorney general or the prosecuting or circuit attorney of the city or county in
174 which a criminal investigation is pending certifies in writing to the division that there is a
175 pending criminal investigation of the incident under investigation by the division and the issuing
176 of a decision by the division will adversely impact the progress of the investigation; or

177 (c) The child victim, the subject of the investigation or another witness with information
178 relevant to the investigation is unable or temporarily unwilling to provide complete information
179 within the specified time frames due to illness, injury, unavailability, mental capacity, age,
180 developmental disability, or other cause.

181

182 The division shall document any such reasons for failure to complete the investigation.

183 (2) If a child fatality or near-fatality is involved in a report of abuse or neglect, the
184 investigation shall remain open until the division's investigation surrounding such death or
185 near-fatal injury is completed.

186 (3) If the investigation is not completed within forty-five days, the information system
187 shall be updated at regular intervals and upon the completion of the investigation, which shall
188 be completed no later than ninety days after receipt of a report of abuse or neglect, or one
189 hundred twenty days after receipt of a report of abuse or neglect involving sexual abuse, or until
190 the division's investigation is complete in cases involving a child fatality or near-fatality. The
191 information in the information system shall be updated to reflect any subsequent findings,
192 including any changes to the findings based on an administrative or judicial hearing on the
193 matter.

194 18. A person required to report under section 210.115 to the division and any person
195 making a report of child abuse or neglect made to the division which is not made anonymously

196 shall be informed by the division of his or her right to obtain information concerning the
197 disposition of his or her report. Such person shall receive, from the local office, if requested,
198 information on the general disposition of his or her report. Such person may receive, if
199 requested, findings and information concerning the case. Such release of information shall be
200 at the discretion of the director based upon a review of the reporter's ability to assist in protecting
201 the child or the potential harm to the child or other children within the family. The local office
202 shall respond to the request within forty-five days. The findings shall be made available to the
203 reporter within five days of the outcome of the investigation. If the report is determined to be
204 unsubstantiated, the reporter may request that the report be referred by the division to the office
205 of child advocate for children's protection and services established in sections 37.700 to 37.730.
206 Upon request by a reporter under this subsection, the division shall refer an unsubstantiated
207 report of child abuse or neglect to the office of child advocate for children's protection and
208 services.

209 19. The division shall provide to any individual who is not satisfied with the results of
210 an investigation information about the office of child advocate and the services it may provide
211 under sections 37.700 to 37.730.

212 20. In any judicial proceeding involving the custody of a child the fact that a report may
213 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

214 (1) Nothing in this subsection shall prohibit the introduction of evidence from
215 independent sources to support the allegations that may have caused a report to have been made;
216 and

217 (2) The court may on its own motion, or shall if requested by a party to the proceeding,
218 make an inquiry not on the record with the children's division to determine if such a report has
219 been made.

220

221 If a report has been made, the court may stay the custody proceeding until the children's division
222 completes its investigation.

223 21. Nothing in this chapter shall be construed to prohibit the children's division from
224 investigating a report of child abuse or neglect or sharing records and information with child
225 welfare, law enforcement, or judicial officers of another state, territory, or nation if the children's
226 division determines it is appropriate to do so under the standard set forth in subsection 4 of
227 section 210.150 and if such receiving agency is exercising its authority under the law.

228 22. In any judicial proceeding involving the custody of a child where the court
229 determines that the child is in need of services under paragraph (d) of subdivision (1) of
230 subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or
231 custodian shall not be entered into the registry.

232 23. The children's division is hereby granted the authority to promulgate rules and
233 regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the
234 provisions of sections 210.109 to 210.183.

235 24. Any rule or portion of a rule, as that term is defined in section 536.010, that is
236 created under the authority delegated in this section shall become effective only if it complies
237 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
238 This section and chapter 536 are nonseverable and if any of the powers vested with the general
239 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
240 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
241 any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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.

**211.135. The court, after considering all information provided by the children's
2 division and input from the family support team, shall order the child to appear in court
3 only:**

4 **(1) If necessary to make a decision; and**

5 **(2) After considering:**

6 **(a) The appropriateness of the courtroom environment for the child based on the
7 level of trauma to the child either in the past or to be caused by the experience in the
8 courtroom; and**

9 **(b) The hardship to be endured by the child and current guardians in regards to
10 the disruption in regular activities, including school and work, and the needs of any other
11 children in the home,**

12

13 **so long as the court is in compliance with all federal guidelines.**

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