

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 679 & 396
92ND GENERAL ASSEMBLY

Reported from the Committee on Children and Families April 4, 2003, with recommendation that the House Committee Substitute for House Bill Nos. 679 & 396 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

1582L.04C

AN ACT

To repeal sections 208.152, 208.204, 210.025, 210.109, 210.110, 210.145, 210.152, 210.160, 210.183, 210.518, 210.565, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 453.110, and 475.024, RSMo, and to enact in lieu thereof thirty-four new sections relating to the state foster care system, the Dominic James Memorial Foster Care Reform Act of 2003, with penalty provisions.

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

Section A. Sections 208.152, 208.204, 210.025, 210.109, 210.110, 210.145, 210.152, 210.160, 210.183, 210.518, 210.565, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 453.110, and 475.024, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 168.283, 207.085, 208.152, 208.204, 210.025, 210.109, 210.110, 210.112, 210.145, 210.147, 210.152, 210.160, 210.183, 210.187, 210.188, 210.482, 210.487, 210.518, 210.565, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 453.110, 475.024, 630.097, 1, 2, 3, and 4, to read as follows:

168.283. 1. No person employed by a school, including but is not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, nurses, and bus drivers, shall have unsupervised contact with pupils until a criminal history background check has been conducted. The results of the background check shall be sent to the employing school district.

2. To facilitate the criminal history background check on any person employed by the school, such person shall submit two sets of fingerprints collected pursuant to

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

8 standards determined by the highway patrol. One set of fingerprints shall be used by the
9 highway patrol to search the criminal history repository and the second set shall be
10 forwarded to the Federal Bureau of Investigation for searching the federal criminal history
11 files.

12 3. Any fees for the state criminal history information pursuant to section 43.530,
13 RSMo, and for the federal criminal history record by the Federal Bureau of Investigation
14 shall be paid by the employee. The department shall distribute the fees collected for the
15 state and federal criminal histories to the highway patrol.

16 4. The employee may be reimbursed by the employing school district if the school
17 district policy provides for reimbursement intended for state and federal criminal history
18 information pursuant to section 43.530, RSMo.

19 5. If, as a result of the criminal history background check required by this section,
20 it is determined that the holder of a certificate issued pursuant to section 168.021 has been
21 charged with or pled guilty or been found guilty of a crime under the laws of this state, of
22 any other state, of the United States, or any other country, regardless of imposition of
23 sentence, such information shall be reported to the department of elementary and
24 secondary education.

25 6. Any school official making a report to the department of elementary and
26 secondary education in conformity with this section shall not be subject to civil liability for
27 such action.

28 7. The state board of education may promulgate rules for criminal history
29 background checks made pursuant to this section. No rule or portion of a rule
30 promulgated pursuant to the authority of this section shall become effective unless it has
31 been promulgated pursuant to chapter 536, RSMo.

32 8. This section shall become effective January 1, 2004.

207.085. 1. For division employees involved with child protective services, it shall
2 be grounds for dismissal for any officer or employee of the division of family services to
3 purposely or knowingly violate a stated or written policy of the division, any rule
4 promulgated by the division, or any state law directly related to the child abuse and neglect
5 activities of the division if the violation results in serious physical injury or death.

6 2. The provisions of this section shall apply to merit system employees of the
7 division, as well as all other employees of the division, and upon a showing of a violation,
8 shall be considered sufficient grounds for the division to make a for cause dismissal
9 pursuant to section 36.380, RSMo.

10 3. The provisions of sections 660.019 to 660.021, RSMo, shall apply to this section.
11 If an employee is responsible for assignments in excess of specified caseload standards

12 **established in section 660.020, RSMo, and the employee fails to follow a stated or written**
13 **policy of the division, any rule promulgated by the division, or any state law directly**
14 **related to the child abuse and neglect activities of the division, the employee's good faith**
15 **efforts to follow the stated or written policies of the division, the rules promulgated by the**
16 **division, or the state laws directly related to the child abuse and neglect activities of the**
17 **division shall be a mitigating factor in determining whether an employee is dismissed**
18 **pursuant to subsection 1 of this section.**

208.152. 1. Benefit payments for medical assistance shall be made on behalf of those
2 eligible needy persons who are unable to provide for it in whole or in part, with any payments
3 to be made on the basis of the reasonable cost of the care or reasonable charge for the services
4 as defined and determined by the division of medical services, unless otherwise hereinafter
5 provided, for the following:

6 (1) Inpatient hospital services, except to persons in an institution for mental diseases who
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the
8 division of medical services shall provide through rule and regulation an exception process for
9 coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile
10 professional activities study (PAS) or the Medicaid children's diagnosis length-of-stay schedule;
11 and provided further that the division of medical services shall take into account through its
12 payment system for hospital services the situation of hospitals which serve a disproportionate
13 number of low-income patients;

14 (2) All outpatient hospital services, payments therefor to be in amounts which represent
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the
18 division of medical services may evaluate outpatient hospital services rendered under this section
19 and deny payment for services which are determined by the division of medical services not to
20 be medically necessary, in accordance with federal law and regulations;

21 (3) Laboratory and X-ray services;

22 (4) Nursing home services for recipients, except to persons in an institution for mental
23 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the
24 department of health and senior services or a nursing home licensed by the division of aging or
25 appropriate licensing authority of other states or government-owned and -operated institutions
26 which are determined to conform to standards equivalent to licensing requirements in Title XIX,
27 of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities.
28 The division of medical services may recognize through its payment methodology for nursing
29 facilities those nursing facilities which serve a high volume of Medicaid patients. The division

30 of medical services when determining the amount of the benefit payments to be made on behalf
31 of persons under the age of twenty-one in a nursing facility may consider nursing facilities
32 furnishing care to persons under the age of twenty-one as a classification separate from other
33 nursing facilities;

34 (5) Nursing home costs for recipients of benefit payments under subdivision (4) of this
35 section for those days, which shall not exceed twelve per any period of six consecutive months,
36 during which the recipient is on a temporary leave of absence from the hospital or nursing home,
37 provided that no such recipient shall be allowed a temporary leave of absence unless it is
38 specifically provided for in his plan of care. As used in this subdivision, the term "temporary
39 leave of absence" shall include all periods of time during which a recipient is away from the
40 hospital or nursing home overnight because he is visiting a friend or relative;

41 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,
42 or elsewhere;

43 (7) Dental services;

44 (8) Services of podiatrists as defined in section 330.010, RSMo;

45 (9) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;

46 (10) Emergency ambulance services and, effective January 1, 1990, medically necessary
47 transportation to scheduled, physician-prescribed nonelective treatments. The department of
48 social services may conduct demonstration projects related to the provision of medically
49 necessary transportation to recipients of medical assistance under this chapter. Such
50 demonstration projects shall be funded only by appropriations made for the purpose of such
51 demonstration projects. If funds are appropriated for such demonstration projects, the
52 department shall submit to the general assembly a report on the significant aspects and results
53 of such demonstration projects;

54 (11) Early and periodic screening and diagnosis of individuals who are under the age of
55 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other
56 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such
57 services shall be provided in accordance with the provisions of section 6403 of P.L.53 101-239
58 and federal regulations promulgated thereunder;

59 (12) Home health care services;

60 (13) Optometric services as defined in section 336.010, RSMo;

61 (14) Family planning as defined by federal rules and regulations; provided, however, that
62 such family planning services shall not include abortions unless such abortions are certified in
63 writing by a physician to the Medicaid agency that, in his professional judgment, the life of the
64 mother would be endangered if the fetus were carried to term;

65 (15) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing

66 aids, and wheelchairs;

67 (16) Inpatient psychiatric hospital services for individuals under age twenty-one as
68 defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

69 (17) Outpatient surgical procedures, including presurgical diagnostic services performed
70 in ambulatory surgical facilities which are licensed by the department of health and senior
71 services of the state of Missouri; except, that such outpatient surgical services shall not include
72 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965
73 amendments to the federal Social Security Act, as amended, if exclusion of such persons is
74 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security
75 Act, as amended;

76 (18) Personal care services which are medically oriented tasks having to do with a
77 person's physical requirements, as opposed to housekeeping requirements, which enable a person
78 to be treated by his physician on an outpatient, rather than on an inpatient or residential basis in
79 a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be
80 rendered by an individual not a member of the recipient's family who is qualified to provide such
81 services where the services are prescribed by a physician in accordance with a plan of treatment
82 and are supervised by a licensed nurse. Persons eligible to receive personal care services shall
83 be those persons who would otherwise require placement in a hospital, intermediate care facility,
84 or skilled nursing facility. Benefits payable for personal care services shall not exceed for any
85 one recipient one hundred percent of the average statewide charge for care and treatment in an
86 intermediate care facility for a comparable period of time;

87 (19) Mental health services. The state plan for providing medical assistance under Title
88 XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental
89 health services when such services are provided by community mental health facilities operated
90 by the department of mental health or designated by the department of mental health as a
91 community mental health facility or as an alcohol and drug abuse facility, **or as an eligible**
92 **system of care provider.**

93 (a) The department of mental health shall establish by administrative rule the definition
94 and criteria for designation as a community mental health facility and for designation as an
95 alcohol and drug abuse facility. Such mental health services shall include:

96 [(a)] a. Outpatient mental health services including preventive, diagnostic, therapeutic,
97 rehabilitative, and palliative interventions rendered to individuals in an individual or group
98 setting by a mental health professional in accordance with a plan of treatment appropriately
99 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
100 part of client services management;

101 [(b)] b. Clinic mental health services including preventive, diagnostic, therapeutic,

102 rehabilitative, and palliative interventions rendered to individuals in an individual or group
103 setting by a mental health professional in accordance with a plan of treatment appropriately
104 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
105 part of client services management;

106 [(c)] c. Rehabilitative mental health and alcohol and drug abuse services including
107 preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to
108 individuals in an individual or group setting by a mental health or alcohol and drug abuse
109 professional in accordance with a plan of treatment appropriately established, implemented,
110 monitored, and revised under the auspices of a therapeutic team as a part of client services
111 management. As used in this section, "mental health professional" and "alcohol and drug abuse
112 professional" shall be defined by the department of mental health pursuant to duly promulgated
113 rules. With respect to services established by this subdivision, the department of social services,
114 division of medical services, shall enter into an agreement with the department of mental health.
115 Matching funds for outpatient mental health services, clinic mental health services, and
116 rehabilitation services for mental health and alcohol and drug abuse shall be certified by the
117 department of mental health to the division of medical services. The agreement shall establish
118 a mechanism for the joint implementation of the provisions of this subdivision. In addition, the
119 agreement shall establish a mechanism by which rates for services may be jointly developed.

120 (b) **The department of mental health, in collaboration with the division of medical**
121 **services within the department of social services, shall establish by rule the definition and**
122 **criteria for designation of a community-based service. Services to be made available and**
123 **easily accessible include intensive home-based services, early intervention services, family**
124 **support services, respite services, and behavioral assistance services;**

125 (20) Comprehensive day rehabilitation services beginning early posttrauma as part of a
126 coordinated system of care for individuals with disabling impairments. Rehabilitation services
127 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment
128 plan developed, implemented, and monitored through an interdisciplinary assessment designed
129 to restore an individual to optimal level of physical, cognitive and behavioral function. The
130 division of medical services shall establish by administrative rule the definition and criteria for
131 designation of a comprehensive day rehabilitation service facility, benefit limitations and
132 payment mechanism;

133 (21) Hospice care. As used in this subsection, the term "hospice care" means a
134 coordinated program of active professional medical attention within a home, outpatient and
135 inpatient care which treats the terminally ill patient and family as a unit, employing a medically
136 directed interdisciplinary team. The program provides relief of severe pain or other physical
137 symptoms and supportive care to meet the special needs arising out of physical, psychological,

138 spiritual, social and economic stresses which are experienced during the final stages of illness,
139 and during dying and bereavement and meets the Medicare requirements for participation as a
140 hospice as are provided in 42 CFR Part 418. Beginning July 1, 1990, the rate of reimbursement
141 paid by the division of medical services to the hospice provider for room and board furnished
142 by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the
143 rate of reimbursement which would have been paid for facility services in that nursing home
144 facility for that patient, in accordance with subsection (c) of section 6408 of P.L. 101-239
145 (Omnibus Budget Reconciliation Act of 1989);

146 (22) Such additional services as defined by the division of medical services to be
147 furnished under waivers of federal statutory requirements as provided for and authorized by the
148 federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general
149 assembly;

150 (23) Beginning July 1, 1990, the services of a certified pediatric or family nursing
151 practitioner to the extent that such services are provided in accordance with chapter 335, RSMo,
152 and regulations promulgated thereunder, regardless of whether the nurse practitioner is
153 supervised by or in association with a physician or other health care provider;

154 (24) Subject to appropriations, the department of social services shall conduct
155 demonstration projects for nonemergency, physician-prescribed transportation for pregnant
156 women who are recipients of medical assistance under this chapter in counties selected by the
157 director of the division of medical services. The funds appropriated pursuant to this subdivision
158 shall be used for the purposes of this subdivision and for no other purpose. The department shall
159 not fund such demonstration projects with revenues received for any other purpose. This
160 subdivision shall not authorize transportation of a pregnant woman in active labor. The division
161 of medical services shall notify recipients of nonemergency transportation services under this
162 subdivision of such other transportation services which may be appropriate during active labor
163 or other medical emergency;

164 (25) Nursing home costs for recipients of benefit payments under subdivision (4) of this
165 subsection to reserve a bed for the recipient in the nursing home during the time that the recipient
166 is absent due to admission to a hospital for services which cannot be performed on an outpatient
167 basis, subject to the provisions of this subdivision:

168 (a) The provisions of this subdivision shall apply only if:

169 a. The occupancy rate of the nursing home is at or above ninety-seven percent of
170 Medicaid certified licensed beds, according to the most recent quarterly census provided to the
171 division of aging which was taken prior to when the recipient is admitted to the hospital; and

172 b. The patient is admitted to a hospital for a medical condition with an anticipated stay
173 of three days or less;

174 (b) The payment to be made under this subdivision shall be provided for a maximum of
175 three days per hospital stay;

176 (c) For each day that nursing home costs are paid on behalf of a recipient pursuant to this
177 subdivision during any period of six consecutive months such recipient shall, during the same
178 period of six consecutive months, be ineligible for payment of nursing home costs of two
179 otherwise available temporary leave of absence days provided under subdivision (5) of this
180 subsection; and

181 (d) The provisions of this subdivision shall not apply unless the nursing home receives
182 notice from the recipient or the recipient's responsible party that the recipient intends to return
183 to the nursing home following the hospital stay. If the nursing home receives such notification
184 and all other provisions of this subsection have been satisfied, the nursing home shall provide
185 notice to the recipient or the recipient's responsible party prior to release of the reserved bed.

186 2. Benefit payments for medical assistance for surgery as defined by rule duly
187 promulgated by the division of medical services, and any costs related directly thereto, shall be
188 made only when a second medical opinion by a licensed physician as to the need for the surgery
189 is obtained prior to the surgery being performed.

190 3. The division of medical services may require any recipient of medical assistance to
191 pay part of the charge or cost, as defined by rule duly promulgated by the division of medical
192 services, for dental services, drugs and medicines, optometric services, eye glasses, dentures,
193 hearing aids, and other services, to the extent and in the manner authorized by Title XIX of the
194 federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When
195 substitution of a generic drug is permitted by the prescriber according to section 338.056, RSMo,
196 and a generic drug is substituted for a name brand drug, the division of medical services may not
197 lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of
198 the federal Social Security Act. A provider of goods or services described under this section
199 must collect from all recipients the partial payment that may be required by the division of
200 medical services under authority granted herein, if the division exercises that authority, to remain
201 eligible as a provider. Any payments made by recipients under this section shall be in addition
202 to, and not in lieu of, any payments made by the state for goods or services described herein.

203 4. The division of medical services shall have the right to collect medication samples
204 from recipients in order to maintain program integrity.

205 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of
206 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers
207 so that care and services are available under the state plan for medical assistance at least to the
208 extent that such care and services are available to the general population in the geographic area,
209 as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations

210 promulgated thereunder.

211 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded
212 health centers shall be in accordance with the provisions of subsection 6402(c) and section 6404
213 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations
214 promulgated thereunder.

215 7. Beginning July 1, 1990, the department of social services shall provide notification
216 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who
217 are determined to be eligible for medical assistance under section 208.151 to the special
218 supplemental food programs for women, infants and children administered by the department
219 of health and senior services. Such notification and referral shall conform to the requirements
220 of section 6406 of P.L. 101-239 and regulations promulgated thereunder.

221 8. Providers of long-term care services shall be reimbursed for their costs in accordance
222 with the provisions of section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as
223 amended, and regulations promulgated thereunder.

224 9. Reimbursement rates to long-term care providers with respect to a total change in
225 ownership, at arm's length, for any facility previously licensed and certified for participation in
226 the Medicaid program shall not increase payments in excess of the increase that would result
227 from the application of section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a
228 (a)(13)(C).

229 10. The department of social services, division of medical services, may enroll qualified
230 residential care facilities, as defined in chapter 198, RSMo, as Medicaid personal care providers.

208.204. 1. The division of medical services may administer the funds appropriated to
2 the department of social services or any division of the department for payment of medical care
3 provided to children in the legal custody of the department of social services or any division of
4 the department.

5 **2. The department of social services shall conduct research into all of the cases in**
6 **their custody to determine which cases involve children in the system due exclusively to a**
7 **need for mental health services, and where there is no instance of abuse, neglect, or**
8 **abandonment.**

9 **3. Children identified under subsection 2 of this section may be returned by the**
10 **judge to the family's custody. Subject to appropriations, the department of mental health**
11 **shall have the responsibility of providing the necessary services for such children in the**
12 **least restrictive appropriate environment, including home- and community-based services,**
13 **treatment and support, based on a coordinated individualized treatment plan.**

14 **4. In the case of children being returned to their family's custody and falling under**
15 **the service responsibility of the department of mental health, the appropriate funds will**

16 **be transferred, subject to appropriations, from the department of social services to the**
17 **department of mental health to provide for the care of each child in such situation.**

210.025. 1. To qualify for receipt of state or federal funds for providing child-care
2 services in the home either by direct payment or through reimbursement to a child-care
3 beneficiary, an applicant and any person over the age of eighteen who is living in the applicant's
4 home shall be required to submit to a criminal background check pursuant to section 43.540,
5 RSMo, and a check of the central registry for child abuse established in section 210.145.
6 Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall
7 be satisfied through registration with the family care safety registry established in sections
8 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

9 2. Upon receipt of an application for state or federal funds for providing child-care
10 services in the home, the division of family services shall:

11 (1) Determine if a [probable cause] finding of child abuse or neglect **by a**
12 **preponderance of the evidence** involving the applicant or any person over the age of eighteen
13 who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145;

14 (2) Determine if the applicant or any person over the age of eighteen who is living in the
15 applicant's home has been refused licensure or has experienced licensure suspension or
16 revocation pursuant to section 210.221 or 210.496; and

17 (3) Request a criminal background check of the applicant and any person over the age
18 of eighteen who is living in the applicant's home pursuant to section 43.540, RSMo.

19 3. Except as otherwise provided in subsection 4 of this section, upon completion of the
20 background checks in subsection 2 of this section, an applicant shall be denied state or federal
21 funds for providing child care if such applicant or any person over the age of eighteen who is
22 living in the applicant's home:

23 (1) Has had a [probable cause] finding of child abuse or neglect **by a preponderance**
24 **of the evidence** pursuant to section 210.145;

25 (2) Has been refused licensure or has experienced licensure suspension or revocation
26 pursuant to section 210.496;

27 (3) Has pled guilty or nolo contendere to or been found guilty of any felony for an
28 offense against the person as defined by chapter 565, RSMo, or any other offense against the
29 person involving the endangerment of a child as prescribed by law; of any misdemeanor or
30 felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for
31 an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of
32 fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any
33 misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or
34 of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which

35 the director has knowledge or any offenses or reports which will disqualify an applicant from
36 receiving state or federal funds.

37 4. An applicant shall be given an opportunity by the division to offer any extenuating or
38 mitigating circumstances regarding the findings, refusals or violations against such applicant or
39 any person over the age of eighteen who is living in the applicant's home listed in subsection 2
40 of this section. Such extenuating and mitigating circumstances may be considered by the
41 division in its determination of whether to permit such applicant to receive state or federal funds
42 for providing child care in the home.

43 5. An applicant who has been denied state or federal funds for providing child care in
44 the home may appeal such denial decision in accordance with the provisions of section 208.080,
45 RSMo.

46 6. If an applicant is denied state or federal funds for providing child care in the home
47 based on the background check results for any person over the age of eighteen who is living in
48 the applicant's home, the applicant shall not apply for such funds until such person is no longer
49 living in the applicant's home.

50 7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
51 is created under the authority delegated in this section shall become effective only if it complies
52 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
53 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and
54 effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity
55 of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable
56 provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the
57 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
58 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
59 grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be
60 invalid and void.

210.109. 1. The division of family services shall establish a child protection system for
2 the entire state.

3 2. The child protection system shall [seek to] promote the safety of children and the
4 integrity and preservation of their families by conducting investigations or family assessments
5 and providing services in response to reports of child abuse or neglect. The system shall
6 [endeavor to] coordinate community resources and provide assistance or services to children and
7 families identified to be at risk, and to prevent and remedy child abuse and neglect.

8 3. In addition to any duties specified in section 210.145, in implementing the child
9 protection system, the division shall:

10 (1) Maintain a central registry;

11 (2) Receive reports and establish and maintain an information system operating at all
12 times, capable of receiving and maintaining reports;

13 (3) Attempt to obtain the name and address of any person making a report in all cases,
14 after obtaining relevant information regarding the alleged abuse or neglect, although reports may
15 be made anonymously;

16 (4) Upon receipt of a report, check with the information system to determine whether
17 previous reports have been made regarding actual or suspected abuse or neglect of the subject
18 child, of any siblings, and the perpetrator, and relevant dispositional information regarding such
19 previous reports;

20 (5) Provide protective or preventive services to the family and child and to others in the
21 home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and
22 stabilize the family whenever possible. The juvenile court shall cooperate with the division in
23 providing such services;

24 (6) Collaborate with the community to identify comprehensive local services and assure
25 access to those services for children and families where there is risk of abuse or neglect;

26 (7) Maintain a record which contains the facts ascertained which support the
27 determination as well as the facts that do not support the determination;

28 **(8) Whenever available and appropriate, contract for the provision of children's**
29 **services through private children's services providers and agencies in the community;**

30 **(9) The state shall be the sole provider of hotline, initial investigation, and family**
31 **assessment services.**

32

33 As used in this subsection, "report" includes any telephone call made pursuant to section
34 210.145.

35 4. By January 1, 1998, the division of family services shall submit documentation to the
36 speaker of the house of representatives and the president pro tem of the senate on the success or
37 failure of the child protection system established in this section. The general assembly may
38 recommend statewide implementation or cancellation of the child protection system based on
39 the success or failure of the system established in this section.

40 5. The documentation required by subsection 4 of this section shall include an
41 independent evaluation of the child protection system completed according to accepted, objective
42 research principles.

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

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,

5 except that discipline including spanking, administered in a reasonable manner, shall not be
6 construed to be abuse;

7 (2) "Central registry", a registry of persons where the division has found [probable cause
8 to believe] **by a preponderance of the evidence** or a court has substantiated through court
9 adjudication that the individual has committed child abuse or neglect or the person has pled
10 guilty or has been found guilty of a crime pursuant to section 565.020, 565.021, 565.023,
11 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section
12 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime
13 pursuant to chapter 566, RSMo, if the victim is a child less than eighteen years of age and the
14 perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child
15 less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080,
16 or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such
17 crimes;

18 (3) "Child", any person, regardless of physical or mental condition, under eighteen years
19 of age;

20 (4) **"Children's services providers and agencies", any public or private entity with**
21 **the appropriate and relevant training and expertise in delivering services to children and**
22 **their families, and capable of providing direct services and other family services for**
23 **children in the custody of the division of family services;**

24 (5) "Director", the director of the Missouri division of family services;

25 [(5)] (6) "Division", the Missouri division of family services;

26 [(6)] (7) "Family assessment and services", an approach to be developed by the division
27 of family services which will provide for a prompt assessment of a child who has been reported
28 to the division as a victim of abuse or neglect by a person responsible for that child's care,
29 custody or control and of that child's family, including risk of abuse and neglect and, if
30 necessary, the provision of community-based services to reduce the risk and support the family;

31 [(7)] (8) "Investigation", the collection of physical and verbal evidence to determine if
32 a child has been abused or neglected;

33 [(8)] (9) "Jail or detention center personnel", employees and volunteers working in any
34 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
35 provided to persons who are being held under custody of the law;

36 [(9)] (10) "Neglect", failure to provide, by those responsible for the care, custody, and
37 control of the child, the proper or necessary support, education as required by law, nutrition or
38 medical, surgical, or any other care necessary for the child's well-being;

39 [(10)] "Probable cause", available facts when viewed in the light of surrounding
40 circumstances which would cause a reasonable person to believe a child was abused or

41 neglected;]

42 (11) **"Preponderance of the evidence", that degree of evidence that is of greater**
43 **weight or more convincing than the evidence which is offered in opposition to it or evidence**
44 **which as a whole shows the fact to be proved to be more probable than not;**

45 (12) "Report", the communication of an allegation of child abuse or neglect to the
46 division pursuant to section 210.115;

47 [(12)] (13) "Those responsible for the care, custody, and control of the child", those
48 included but not limited to the parents or guardian of a child, other members of the child's
49 household, or those exercising supervision over a child for any part of a twenty-four-hour day.
50 Those responsible for the care, custody and control shall also include any adult who, based on
51 relationship to the parents of the child, members of the child's household or the family, has
52 access to the child.

210.112. 1. It is the policy of this state and its agencies to implement a foster care
2 **and child protection and welfare system focused on providing the highest quality of**
3 **services and outcomes for children and their families. The department of social services**
4 **shall implement such system subject to the following principles:**

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

6 (2) **Services shall be provided on a competitive basis where public and private**
7 **providers of direct services to children and their families will be evaluated in a uniform**
8 **and consistent basis;**

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

11 (4) **Any provider of direct services to children and families shall have the**
12 **appropriate training, education, and competencies to provide the highest quality of services**
13 **possible.**

14 **2. On or before July 1, 2004, the division of family services, or its successor division,**
15 **the courts in the designated areas of the pilot project, and any other state agency deemed**
16 **necessary by the division and the courts shall, with input from the community and**
17 **providers of services, implement a two-year pilot project in Greene County, the city of St.**
18 **Louis, and a rural county in this state selected by the division which will provide a**
19 **comprehensive and deliberate system of service delivery for all children and their families**
20 **when children are in the custody of the division. In implementing the pilot project, direct**
21 **services for children and their families currently provided by the division of family services**
22 **in Greene County, the city of St. Louis, and the selected rural county, except for services**
23 **related to the child abuse and neglect hotline, investigations of alleged child abuse and**
24 **neglect, and family assessments, shall be contracted for by a competitive bid process and**

25 provided by public and private not-for-profit children's services providers and agencies
26 which have:

27 (1) A license or appropriate accreditation; or

28 (2) A proven record of providing child welfare services within the state of Missouri;

29 or

30 (3) The ability to provide a range of child welfare services, which may include case
31 management services, family-centered services, foster and adoptive parent recruitment and
32 retention, residential care, mentoring, intensive in-home services, foster care services,
33 adoption services, relative care case management, independent living services, and family
34 reunification services.

35

36 Such children's services providers and agencies under contract with the division shall be
37 subject to all federal, state, and local laws and regulations relating to the provision of such
38 services.

39 3. By February 1, 2004, each county or city participating in the pilot project shall
40 submit a plan for the implementation of the pilot project, including but not limited to the
41 following:

42 (1) A timetable for meeting the county's or city's goal for privatization cases;

43 (2) A plan for implementing the competitive bid process; and

44 (3) The criteria to be used for payment of children's services contracts.

45

46 The plan shall be developed by a committee of no more than fifteen members in each
47 county or city, including but not limited to the following: a representative or
48 representatives from the local division of family services; a representative or
49 representatives from private agencies; a representative or representatives from the judicial
50 circuit in which the county is located; a representative or representatives from child
51 advocacy groups; an attorney representing the interest of the parents; a volunteer advocate
52 or advocates and/or guardian or guardians ad litem; a representative from the department
53 of mental health; a representative or representatives from community partnership
54 agencies; and one other appropriate community representative.

55 4. The pilot project shall have the following criteria:

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

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

61 **(3) Any case management services provided shall be subject to a case management**
62 **plan established pursuant to subsection 4 of this section which is consistent with all**
63 **relevant federal guidelines. The case management plan shall focus on attaining**
64 **permanency in children's living conditions to the greatest extent possible and shall include**
65 **concurrent planning and independent living where appropriate in accordance with the best**
66 **interests of each child served and considering relevant factors applicable to each individual**
67 **case as provided by law, including:**

68 **(a) The interaction and interrelationship of a child with the child's foster parents,**
69 **natural parents, siblings, and any other person who may significantly affect the child's best**
70 **interests;**

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

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

74 **(d) The needs of the child for a continuing relationship with the child's natural**
75 **parents and the ability and willingness of the child's natural parents to actively perform**
76 **their functions as parents with regard to the needs of the child;**

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

79 **(5) The highest quality of services possible shall be achieved through a system of**
80 **incentives for reaching and exceeding clearly defined goals and outcome measures; and**

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

86 **5. For the pilot project areas, a case management plan consistent with all relevant**
87 **federal guidelines shall be developed for each child at the earliest time after the initial**
88 **investigation, but in no event longer than fourteen days after the initial investigation. Such**
89 **case management plan shall be presented to the court and be the foundation of service**
90 **delivery to the child and family. The case management plan shall, at a minimum, include:**

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

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

94 **(3) Timeframes in which services will be delivered; and**

95 **(4) Necessary evaluations and reporting.**

96

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

105 **6. On or before July 15, 2005, and each July fifteenth thereafter that the project is**
106 **in operation, the division, in collaboration with the courts in the designated pilot project**
107 **areas, shall submit a report to the general assembly which shall include:**

108 **(1) Details about the specifics of the pilot project in each of the three designated**
109 **areas, including the number of children and families served in each of the three designated**
110 **areas of the pilot project, the cost to the state for contracting such services, the current**
111 **status of the children and families served, an assessment of the quality of services provided**
112 **and outcomes achieved, and an overall evaluation of the project; and**

113 **(2) Any recommendations regarding the continuation or possible statewide**
114 **implementation of such project; and**

115 **(3) Any information or recommendations directly related to the provision of direct**
116 **services for children and their families that any of the contracting children's services**
117 **providers and agencies wish to include in the report.**

118 **7. The department and division may promulgate rules to implement the provisions**
119 **of this section. No rule or portion of a rule promulgated pursuant to the authority of this**
120 **section shall become effective unless it has been promulgated pursuant to chapter 536,**
121 **RSMo.**

122 **8. The provisions of this section shall expire on December 31, 2005.**

210.145. 1. The division shall [establish and] develop protocols which give priority
2 **to:**

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

5 **(2) Provide due process for those accused of child abuse or neglect; and**

6 **(3) Maintain an information system operating at all times, capable of receiving and**
7 **maintaining reports. This information system may include the establishment of a "child**
8 **well-being" hotline to receive reports that do not rise to the level of abuse or neglect, but**
9 **include cases which could be referred to local division contracted providers for follow-up**
10 **services and other assistance. This information system shall have the ability to receive reports**

11 over a [single,] statewide toll-free number. Such information system shall maintain the results
12 of all investigations, family assessments and services, and other relevant information.

13 2. Upon receipt of a report, the division shall immediately [communicate such report to
14 its appropriate local office and any relevant information as may be contained in the information
15 system.] **classify the reported incident of child abuse or neglect into one of three categories:**

16 **(1) Class I: alleged incidents which indicate the need for an emergency preliminary**
17 **investigation;**

18 **(2) Class II: alleged incidents which warrant a central registry investigation; and**

19 **(3) Class III: alleged incidents for which summary closure is appropriate.**

20

21 **The division shall conduct an intake assessment to determine whether an alleged incident**
22 **of child abuse, if true, indicates the child is in danger of death, sexual abuse, or serious**
23 **physical harm. If the report indicates the child is in danger of death, sexual abuse, or**
24 **serious physical harm, the division shall immediately communicate such report to its**
25 **appropriate local office together with any class I or class II information which may be**
26 **contained in the information system. The local office shall immediately begin an**
27 **emergency preliminary investigation of the alleged incident.**

28 3. For all reports received that require an investigation by the division, the division
29 shall utilize the structured decision-making (SDM) model for child protective services
30 which includes a response priority and a standard child safety protocol and assessment to
31 evaluate and determine the immediate danger of severe harm, determine interventions to
32 provide protection, and establish criteria for emergency removal. All court personnel,
33 guardians ad litem, court-appointed special advocates, and judges shall be trained on the
34 SDM model and assessment instruments.

35 4. An emergency preliminary investigation shall be conducted by the local office
36 and shall include direct observations of the subject child within twenty-four hours of the
37 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such
38 direct observation. If a parent having legal custody of the child or a legal guardian of the
39 child is not the alleged abuser, the parent or legal guardian of the child shall be notified
40 prior to the child being interviewed. Such parent or legal guardian, if immediately
41 available, may attend the interview either personally or telephonically and through the
42 parent's attorney. The division shall develop interview protocols to be followed by the
43 division and the local office whenever interviewing children and shall promulgate such
44 protocols as rules pursuant to the provisions of section 207.021, RSMo, and chapter 536,
45 RSMo. The division shall not meet with the child in any residence or building where abuse
46 of such child is alleged to have occurred. When the child is reported absent from the

47 **residence, the location and the well-being of the child shall be verified.**

48 **5. If at any time during an emergency preliminary investigation the local office**
49 **determines that probable cause does not exist that the child is in danger of death, sexual**
50 **abuse, or serious physical harm, the emergency preliminary investigation shall be**
51 **terminated and** the local division staff shall determine, through the use of protocols developed
52 by the division, whether [an] **a central registry investigation, summary closure,** or the family
53 assessment and services approach should be used to respond to the allegation. [The protocols
54 developed by the division shall give priority to ensuring the well-being and safety of the child.]

55 **[3.] 6. Upon the division's referral of an emergency preliminary investigation to the**
56 **local office,** the local office shall contact the appropriate law enforcement agency immediately
57 upon receipt of a report which [division personnel determine merits an investigation, or, which],
58 if true, would constitute a suspected violation of any of the following: section 565.020, 565.021,
59 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age,
60 section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or
61 other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and
62 the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a
63 child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060,
64 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to
65 commit any such crimes. The local office shall provide such agency with a detailed description
66 of the report received. [In such cases the local division office shall request the assistance of the
67 local law enforcement agency in all aspects of the investigation of the complaint.] **When**
68 **requested by the division,** the appropriate law enforcement agency shall [either] assist the
69 division in the investigation [or provide the division, within twenty-four hours, an explanation
70 in writing detailing the reasons why it is unable to assist]. **No statement obtained by the**
71 **division during the course of an emergency preliminary investigation may be used in any**
72 **central registry investigation unless the interview is videotape or audiotape recorded in its**
73 **entirety.**

74 **7. If at any time during an intake assessment, a preliminary investigation or a**
75 **central registry investigation, or family assessment and services approach, the division or**
76 **the local office may determine that summary case closure is appropriate. If the division**
77 **determines that neither division or local office intervention is appropriate, the reasons for**
78 **not assigning the case for emergency preliminary investigation, central registry**
79 **investigation, or family assessment shall be clearly documented in writing on the intake**
80 **documents and signed by a division supervisor. Situations where continued investigation**
81 **is not warranted include the following:**

82 **(1) The allegation is essentially the same incident of child abuse or neglect which**

83 **has already been reported or assigned for investigation;**

84 **(2) The allegation does not meet the definition of child abuse or neglect;**

85 **(3) The allegation arises from a reporter who is reporting speculation or**
86 **information from second- or third-hand sources which is vague or insufficient, or the**
87 **reporter is unable to articulate any basis in fact for the suspicion;**

88 **(4) The reporter is unreliable or not credible due to the reporter's prior history of**
89 **repeatedly making false or questionable reports, or due to the allegation's lack of substance**
90 **and the apparent color of self interest on the part of the reporter;**

91 **(5) The reporter withdraws the allegations before the investigation begins based**
92 **on new information and there is insufficient reason to proceed; or**

93 **(6) The division lacks jurisdiction to investigate the matter.**

94

95 **If after the intake assessment the division determines that neither an emergency**
96 **preliminary investigation or a summary case closure is appropriate, the division shall**
97 **communicate such report to its appropriate local office and any relevant information as**
98 **may be contained in the information system for a central registry investigation or family**
99 **assessment and services approach.**

100 **[4.] 8. Upon referral of an incident report for a central registry investigation or**
101 **family assessment and services approach, the division shall immediately communicate such**
102 **report to its appropriate local office together with any class I information which may be**
103 **contained in the information system. The local office of the division shall cause [an] a central**
104 **registry investigation or family assessment and services approach to be initiated [immediately**
105 **or no later than within twenty-four] within forty-eight hours of receipt of the report from the**
106 **division, except in cases where the sole basis for the report is educational neglect. If the report**
107 **indicates that educational neglect is the only complaint and there is no suspicion of other neglect**
108 **or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report.**
109 **[If the report indicates the child is in danger of serious physical harm or threat to life,] An**
110 **investigation shall include direct observation of the subject child [within twenty-four hours of**
111 **the receipt of the report]. If necessary, local law enforcement shall take all necessary steps to**
112 **facilitate such direct observation. Any interview of an alleged victim of child abuse or neglect**
113 **by the division or any member of the interdisciplinary team shall be audiotape recorded**
114 **or videotape recorded in its entirety, or shall be conducted in the presence of a third party**
115 **who can testify at any administrative or court proceeding as to what transpired at such**
116 **interrogation or interview. The division shall develop interview protocols to be followed**
117 **by the division and the local office whenever interviewing children and shall promulgate**
118 **such protocols as rules pursuant to the provisions of section 207.021, RSMo, and chapter**

119 **536, RSMo.** If the parents of the child are not the alleged abusers, the parents of the child must
120 be notified prior to the child being interviewed by the division. The division shall not meet with
121 the child in any [location] **residence or building** where abuse of such child is alleged to have
122 occurred. When the child is reported absent from the residence, the location and the well-being
123 of the child shall be verified. **The division or the local office shall commence an immediate**
124 **emergency preliminary investigation if at any time during the central registry investigation**
125 **it is determined the child is in danger of death, sexual abuse, or serious physical harm. The**
126 **division staff who conduct the central registry investigation may remain involved in the**
127 **emergency preliminary investigation of the child and family.**

128 [5.] **9.** The director of the division shall name at least one chief investigator for each
129 local division office, who shall direct the division response on any case involving a second or
130 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
131 investigator shall include verification of direct observation of the subject child by the division
132 and shall ensure information regarding the status of an investigation is provided to the public
133 school district liaison. The public school district liaison shall develop protocol in conjunction
134 with the chief investigator to ensure information regarding an investigation is shared with
135 appropriate school personnel. The superintendent of each school district shall designate a
136 specific person or persons to act as the public school district liaison. Should the subject child
137 attend a nonpublic school the chief investigator shall notify the school principal of the
138 investigation. Upon notification of an investigation, all information received by the public
139 school district liaison or the school shall be subject to the provisions of the federal Family
140 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
141 C.F.R., Part 99.

142 [6.] **10.** The **emergency preliminary investigation or central registry** investigation
143 shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the
144 identity and age of the person responsible for the abuse or neglect; the names and conditions of
145 other children in the home, if any; the home environment and the relationship of the subject child
146 to the parents or other persons responsible for the child's care; any indication of incidents of
147 physical violence against any other household or family member; and other pertinent data.

148 [7.] **11.** When a report has been made by a person required to report under section
149 210.115, the division shall contact the person who made such report within forty-eight hours of
150 the receipt of the report in **emergency preliminary investigations and within seventy-two**
151 **hours in central registry investigations** in order to ensure that full information has been
152 received and to obtain any additional information or medical records, or both, that may be
153 pertinent.

154 [8.] **12.** Upon completion of the **emergency preliminary investigation or central**

155 **registry** investigation, if the division suspects that the report was made maliciously or for the
156 purpose of harassment, the division shall refer the report and any evidence of malice or
157 harassment to the local prosecuting or circuit attorney.

158 **13. Emergency child protection teams shall be used whenever conducting an**
159 **emergency preliminary investigation. Emergency child protection teams shall consist of**
160 **designated division local office personnel, the juvenile officer and, if necessary to facilitate**
161 **direct observation of the allegedly abused child, local law enforcement.**

162 [9.] **14.** Multidisciplinary teams [shall] **may** be used whenever conducting the **central**
163 **registry** investigation as determined by the division in conjunction with local law enforcement.
164 Multidisciplinary teams shall be used in providing protective or preventive social services,
165 including the services of law enforcement, a liaison of the local public school, the juvenile
166 officer, the juvenile court, and other agencies, both public and private.

167 [10.] **15.** If the appropriate local division personnel determine after an **emergency**
168 **preliminary** investigation **or central registry investigation** has begun that [completing]
169 **continuing** an investigation **to completion** is not appropriate, the division shall **summarily close**
170 **the case or** conduct a family assessment and services approach. The division shall provide
171 written notification to local law enforcement prior to terminating any investigative process. The
172 reason for the termination of the investigative process shall be documented in the record of the
173 division and the written notification submitted to local law enforcement. Such notification shall
174 not preclude nor prevent any investigation by law enforcement.

175 [11.] **16.** If the appropriate local division personnel determines to use a family
176 assessment and services approach, the division shall:

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

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

187 (3) Commence an immediate **emergency preliminary investigation if at any time**
188 **during the family assessment and services approach the division determines that an**
189 **emergency preliminary investigation, as delineated in subsections 2 to 13 of this section,**
190 **is required, or commence an immediate central registry** investigation if at any time during

191 the family assessment and services approach the division determines that [an] **a central registry**
192 investigation, as delineated in [sections 210.109 to 210.183] **subsections 2 to 13 of this section,**
193 is required. The division staff who have conducted the assessment may remain involved in the
194 provision of services to the child and family; **and**

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

197 **17. For all family assessment team meetings and other team meetings involving an**
198 **alleged victim of child abuse or neglect, the biological parents, legal counsel for the**
199 **biological parents, foster parents, the guardian ad litem for the child, and the court-**
200 **appointed special advocate for the child shall be provided notice and be permitted to attend**
201 **all such meetings. In addition, the biological parents, the legal counsel for the biological**
202 **parents, and the foster parents may request that other individuals be permitted to attend**
203 **such meetings. Once a person is provided notice of or attends such meetings, the division**
204 **shall provide such persons with notice of all such subsequent meetings involving the child.**

205 [12.] **18.** Within thirty days of an oral report of abuse or neglect, the local office shall
206 update the information in the information system. The information system shall contain, at a
207 minimum, the determination made by the division as a result of the investigation, identifying
208 information on the subjects of the report, those responsible for the care of the subject child and
209 other relevant dispositional information. The division shall complete all investigations within
210 thirty days, unless good cause for the failure to complete the investigation is documented in the
211 information system. If the investigation is not completed within thirty days, the information
212 system shall be updated at regular intervals and upon the completion of the investigation. The
213 information in the information system shall be updated to reflect any subsequent findings,
214 including any changes to the findings based on an administrative or judicial hearing on the
215 matter.

216 [13.] **19.** A person required to report under section 210.115 to the division shall be
217 informed by the division of his right to obtain information concerning the disposition of his or
218 her report. Such person shall receive, from the local office, if requested, information on the
219 general disposition of his or her report. A person required to report to the division pursuant to
220 section 210.115 may receive, if requested, findings and information concerning the case. Such
221 release of information shall be at the discretion of the director based upon a review of the
222 mandated reporter's ability to assist in protecting the child or the potential harm to the child or
223 other children within the family. The local office shall respond to the request within forty-five
224 days. The findings shall be made available to the mandated reporter within five days of the
225 outcome of the investigation.

226 [14.] **20.** In any judicial proceeding involving the custody of a child the fact that a report

227 may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However,
228 nothing in this subsection shall prohibit the introduction of evidence from independent sources
229 to support the allegations that may have caused a report to have been made.

230 [15.] 21. In any judicial proceeding involving the custody of a child where the court
231 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
232 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall
233 not be entered into the registry.

234 [16.] 22. The division of family services is hereby granted the authority to promulgate
235 rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536,
236 RSMo, to carry out the provisions of sections 210.109 to 210.183.

237 [17.] 23. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
238 that is created under the authority delegated in this section shall become effective only if it
239 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
240 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
241 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay
242 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
243 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall
244 be invalid and void.

**210.147. All information provided at any meeting or hearing held in relation to the
2 removal of a child from the child's home is confidential, however, any parent or party may
3 waive confidentiality for himself or herself.**

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

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

6 (2) For investigation reports initiated by a person required to report pursuant to section
7 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
8 information shall be retained for [ten] **five** years from the date of the report; **except that, for
9 class III information pursuant to subsection 2 of section 210.145, no identifying
10 information shall be retained by the division.** For all other investigation reports where
11 insufficient evidence of abuse or neglect is found by the division, identifying information shall
12 be retained for two years from the date of the report; **except that, for class III information
13 pursuant to subsection 2 of section 210.145, no identifying information shall be retained
14 by the division.** Such report shall include any exculpatory evidence known by the division,
15 including exculpatory evidence obtained after the closing of the case. At the end of such

16 two-year period, the identifying information shall be removed from the records of the division
17 and destroyed;

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

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

23 2. Within ninety days after receipt of a report of abuse or neglect that is investigated, the
24 alleged perpetrator named in the report and the parents of the child named in the report, if the
25 alleged perpetrator is not a parent, shall be notified in writing of any determination made by the
26 division based on the investigation. The notice shall advise either:

27 (1) That the division has determined **by a preponderance of the evidence** that [there
28 is probable cause to suspect] abuse or neglect exists and that the division shall retain all
29 identifying information regarding the abuse or neglect; that such information shall remain
30 confidential and will not be released except to law enforcement agencies, prosecuting or circuit
31 attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the
32 date of receipt of the notice to seek reversal of the division's determination through a review by
33 the child abuse and neglect review board as provided in subsection 3 of this section; or

34 (2) [There is insufficient probable cause of abuse or neglect.] **That the division has not**
35 **determined by a preponderance of the evidence that abuse or neglect exists.**

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

43 4. In any such action for administrative review, the child abuse and neglect review board
44 shall sustain the division's determination if [such determination is supported by evidence of
45 probable cause and is not against the weight of such evidence] **the division establishes by a**
46 **preponderance of the evidence that the alleged perpetrator abused or neglected a child.**
47 **The abuse and neglect review board shall provide the alleged perpetrator with an**
48 **opportunity to appear and present testimony. The Missouri rules of civil procedure and**
49 **rules of evidence shall apply in such proceedings.** The child abuse and neglect review board
50 hearing shall be closed to all persons except the parties, their attorneys and those persons
51 providing testimony on behalf of the parties.

52 5. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect
53 review board, the alleged perpetrator may [seek de novo judicial review in the circuit court in
54 the county in which the alleged perpetrator resides and in circuits with split venue, in the venue
55 in which the alleged perpetrator resides, or in Cole County] **demand in writing that the**
56 **division initiate de novo circuit court proceedings. Such demand shall be made within sixty**
57 **days of the notification of the decision of the child abuse and neglect review board. The**
58 **division shall initiate de novo proceedings in the circuit court in Cole County within**
59 **fourteen days. The alleged perpetrator shall be permitted to change venue to the county**
60 **in which the alleged perpetrator resides.** If the alleged perpetrator is not a resident of the state,
61 proper venue shall be in Cole County. The case may be assigned to the family court division
62 where such a division has been established. [The request for a judicial review shall be made
63 within sixty days of the notification of the decision of the child abuse and neglect review board
64 decision. In reviewing such decisions,] **In the de novo proceeding, the division shall be the**
65 **petitioner and shall prove by a preponderance of the evidence that the alleged perpetrator**
66 **abused or neglected a child.** The circuit court shall provide the alleged perpetrator the
67 opportunity to appear and present testimony. **The Missouri rules of civil procedure and rules**
68 **of evidence shall apply to such proceedings.** The [alleged perpetrator] parties may subpoena
69 any witnesses except the alleged victim or the reporter. However, the circuit court shall have the
70 discretion to allow the parties to submit the case upon a stipulated record.

71 6. In any such action for administrative review the child abuse and neglect review board
72 shall notify the child or the parent, guardian or legal representative of the child that a review has
73 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 sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to
5 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375
6 to 452.410, RSMo; 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, RSMo, or sections 453.005 to 453.170, RSMo.

10 2. The guardian ad litem shall be provided with all reports relevant to the case made to
11 or by any agency or person [and], shall have access to all records of such agencies or persons
12 relating to the child or such child's family members or placements of the child, **and upon**
13 **appointment by the court, shall be informed of and have the right to attend any and all**
14 **meetings involving the child.** Employees of the division, officers of the court, and employees

15 of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which
16 they have knowledge or belief.

17 3. The appointing judge shall require the guardian ad litem to faithfully discharge such
18 guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and
19 appoint another. **The appointing judge shall have the authority to examine the general and**
20 **criminal background of persons appointed as guardians ad litem to ensure the safety and**
21 **welfare of the children such persons are appointed to represent.** The judge in making
22 appointments pursuant to this section shall give preference to persons who served as guardian
23 ad litem for the child in the earlier proceeding, unless there is a reason on the record for not
24 giving such preference.

25 4. The guardian ad litem may be awarded a reasonable fee for such services to be set by
26 the court. The court, in its discretion, may award such fees as a judgment to be paid by any party
27 to the proceedings or from public funds. However, no fees as a judgment shall be taxed against
28 a party or parties who have not been found to have abused or neglected a child or children. Such
29 an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem.
30 Such final judgment shall be enforceable against the parties in accordance with chapter 513,
31 RSMo.

32 5. The court may designate volunteer advocates, who may or may not be attorneys
33 licensed to practice law, to assist in the performance of the guardian ad litem duties for the court.
34 **The court shall have the authority to examine the general and criminal background of**
35 **persons designated as volunteer advocates to ensure the safety and welfare of the children**
36 **such persons are designated to represent.** The volunteer advocate shall be provided with all
37 reports relevant to the case made to or by any agency or person [and], shall have access to all
38 records of such agencies or persons relating to the child or such child's family members or
39 placements of the child, **and upon designation by the court shall be informed of and have**
40 **the right to attend any and all meetings involving the child.** Any such designated person
41 shall receive no compensation from public funds. This shall not preclude reimbursement for
42 reasonable expenses.

43 6. Any person appointed to perform guardian ad litem duties shall have completed a
44 training program in permanency planning **and shall, whenever possible, advocate for timely**
45 **court hearings to attain permanency for a child as expeditiously as possible to reduce the**
46 **effects that prolonged foster care may have on a child.** A nonattorney volunteer advocate
47 shall have access to a court appointed attorney guardian ad litem should the circumstances of the
48 particular case so require.

210.183. 1. At the time of the initial investigation of a report of child abuse or neglect,
2 the division employee conducting the investigation shall provide the alleged perpetrator with a

3 written description of the investigation process. Such written notice shall be given substantially
4 in the following form:

5 "The investigation is being undertaken by the Division of Family Services pursuant to
6 the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child
7 abuse or neglect.

8 "The identity of the person who reported the incident of abuse or neglect is confidential
9 and may not even be known to the Division since the report could have been made anonymously.

10 "This investigation is required by law to be conducted in order to enable the Division of
11 Family Services to identify incidents of abuse or neglect in order to provide protective or
12 preventive social services to families who are in need of such services.

13 "The division shall make every reasonable attempt to complete the investigation within
14 thirty days. Within ninety days you will receive a letter from the Division which will inform you
15 of one of the following:

16 "(1) That the Division has found insufficient evidence of abuse or neglect; or

17 "(2) That there appears to be probable cause to suspect the existence of child abuse or
18 neglect in the judgment of the Division and that the Division will contact the family to offer
19 social services.

20 "If the Division finds [there is probable cause to believe] **by a preponderance of the**
21 **evidence that** child abuse or neglect has occurred or the case is substantiated by court
22 adjudication, a record of the report and information gathered during the investigation will remain
23 on file with the Division.

24 "If you disagree with the determination of the Division and feel that there is insufficient
25 [probable cause to believe] **evidence to prove by a preponderance of the evidence that** abuse
26 or neglect has occurred, you have a right to request an administrative review at which time you
27 may hire an attorney to represent you. If you request an administrative review on the issue, you
28 will be notified of the date and time of your administrative review hearing by the child abuse and
29 neglect review board. If the division's decision is reversed by the child abuse and neglect review
30 board, the Division records concerning the report and investigation will be updated to reflect
31 such finding. If the child abuse and neglect review board upholds the division's decision, an
32 appeal may be filed in circuit court within sixty days of the child abuse and neglect review
33 board's decision."

34 2. If the division uses the family assessment approach, the division shall at the time of
35 the initial contact provide the parent of the child with the following information:

36 (1) The purpose of the contact with the family;

37 (2) The name of the person responding and his office telephone number;

38 (3) The assessment process to be followed during the division's intervention with the

39 family including the possible services available and expectations of the family.

**210.187. 1. The children's juvenile justice task force established in accordance with
2 federal law shall provide an independent review of policies and procedures of state and
3 local child protective services agencies, and where appropriate, specific cases, and to
4 evaluate the extent to which the agencies are effectively discharging their child protection
5 responsibilities.**

**6 2. The members of the task force shall not disclose to any person or government
7 official any identifying information concerning a specific child protection case with respect
8 to which the panel is providing information and shall not make public other information
9 unless authorized by state law.**

10 3. The task force shall be provided:

**11 (1) Access to information on cases that the task force desires or is requested to
12 review if such information is necessary for the task force to carry out its functions
13 pursuant to this section; and**

**14 (2) Upon request, assistance from the department of social services for the
15 performance of the task force's duties.**

**210.188. Beginning February 1, 2005, and each February first thereafter, the
2 department of social services shall submit a report to the governor and the general
3 assembly that includes the following information for the previous calendar year:**

**4 (1) The number of children who were reported to the state of Missouri during the
5 year as abused or neglected;**

**6 (2) Of the number of children described in subdivision (1) of this section, the
7 number with respect to whom such reports were:**

8 (a) Substantiated;

9 (b) Unsubstantiated; or

10 (c) Determined to be false;

11 (3) Of the number of children described in subdivision (2) of this section:

**12 (a) The number that did not receive services during the year under a state
13 program;**

**14 (b) The number that did receive services during the year under a state program;
15 and**

**16 (c) The number that were removed from their families during the year by
17 disposition of the case;**

**18 (4) The number of families that received preventive services from the state during
19 the year;**

20 (5) The number of deaths in the state during the year resulting from child abuse

21 or neglect;

22 (6) Of the number of children described in subdivision (5) of this section, the
23 number of children who were in foster care;

24 (7) The number of child protective services workers responsible for the intake and
25 screening of reports filed during the year;

26 (8) The agency response time with respect to each such report with respect to initial
27 investigation of reports of child abuse or neglect;

28 (9) The response time with respect to the provision of services to families and
29 children where an allegation of abuse or neglect has been made;

30 (10) The number of child protective services workers responsible for intake,
31 assessment, and investigation of child abuse and neglect reports relative to the number of
32 reports investigated during the year;

33 (11) The number of children reunited with their families or receiving family
34 preservation services that, within five years, result in subsequent substantiated reports of
35 child abuse and neglect, including the death of the child; and

36 (12) The number of children for whom individuals were appointed by the court to
37 represent the best interests of such children and the average number of out-of-court
38 contacts between such individuals and children.

210.482. 1. If the emergency placement of a child in a private home is necessary
2 due to the unexpected absence of the child's parents, legal guardian, or custodian, the
3 juvenile court or division of family services may request that a local or state law
4 enforcement agency or juvenile officer immediately conduct a name-based criminal history
5 record check to include orders of protection and outstanding warrants of each person
6 eighteen years of age or older residing in the home by using the Missouri uniform law
7 enforcement system (MULES) and the National Crime Information Center to access the
8 Interstate Identification Index maintained by the Federal Bureau of Investigation.

9 2. If a name-based search has been conducted pursuant to subsection 1 of this
10 section, within five business days after the emergency placement of the child in the private
11 home, and if the private home has not previously been approved as a foster or adoptive
12 home, all persons eighteen years of age or older residing in the home shall report to a local
13 law enforcement agency for the purpose of providing two sets of fingerprints each and
14 accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be
15 used by the highway patrol to search the criminal history repository and the second set
16 shall be forwarded to the Federal Bureau of Investigation for searching the federal
17 criminal history files. Results of the checks will be provided to the juvenile court or
18 division of family services' office requesting such information. Any child placed in

19 emergency placement in a private home shall be removed immediately if any person
20 residing in the home fails to provide fingerprints after being requested to do so, unless the
21 person refusing to provide fingerprints ceases to reside in the private home.

22 **3. If the placement of a child is denied as a result of a name-based criminal history**
23 **check and the denial is contested, all persons eighteen years of age or older residing in the**
24 **home shall, within five business days, submit to the juvenile court or the division of family**
25 **services two sets of fingerprints, accompanying fees, and written permission authorizing**
26 **the juvenile court or the division of family services to forward the fingerprints to the state**
27 **criminal record repository for submission to the Federal Bureau of Investigation. One set**
28 **of fingerprints shall be used by the highway patrol to search the criminal history repository**
29 **and the second set shall be forwarded to the Federal Bureau of Investigation for searching**
30 **the federal criminal history files.**

31 **4. For the purposes of this section, "emergency placement" refers to those limited**
32 **instances when the juvenile court or division of family services is placing a child in the**
33 **home of private individuals, including neighbors, friends, or relatives, as a result of a**
34 **sudden unavailability of the child's primary caretaker.**

210.487. 1. When conducting investigations of persons for the purpose of foster
2 **parent licensing, the division shall:**

3 **(1) Conduct a search for any adult in the applicant's household for evidence of full**
4 **orders of protection. The office of state courts administrator shall allow access to the**
5 **automated court information system by the division. The clerk of each court contacted by**
6 **the division shall provide the division information within ten days of a request; and**

7 **(2) Obtain two sets of fingerprints for any adult in the applicant's household. One**
8 **set of fingerprints shall be used by the highway patrol to search the criminal history**
9 **repository and the second set shall be forwarded to the Federal Bureau of Investigation for**
10 **searching the federal criminal history files. The highway patrol shall assist the division**
11 **and provide the criminal fingerprint background information, upon request.**

12 **2. The division may make arrangements with other executive branch agencies to**
13 **obtain any investigative background information.**

14 **3. The division may promulgate rules and regulations that are necessary to**
15 **implement the provisions of this section. No rule or portion of a rule promulgated**
16 **pursuant to the authority of this section shall become effective unless it has been**
17 **promulgated pursuant to chapter 536, RSMo.**

210.518. 1. The department of social services, the department of mental health, the
2 **department of elementary and secondary education and all subdivisions thereof shall develop and**
3 **implement through interagency agreement a common system of classification for assessing the**

4 needs of a child and common terminology to describe the services to be provided to the child.
5 The agreement must establish a standardized form and set of records to be kept for such children
6 which shall include, if applicable to such child, any individualized education plan, diagnostic
7 summary, school history, school records, medical history, court records, placement orders and
8 any criminal history. The agreement shall be adopted and in effect on or before July 1, 1999.

9 **2. To facilitate the coordination of services being provided to children, interagency**
10 **meetings pursuant to subsection 1 of this section shall be held monthly to address and**
11 **review any actions being taken by agency personnel involved in the provision of services**
12 **to a child. The agencies shall document which staff members attended such meetings.**

210.565. 1. Whenever a child is placed in a foster home **and the court has determined**
2 **pursuant to subsection 3 of this section that foster home placement with relatives is not**
3 **contrary to the best interest of the child**, the division of family services shall give [preference
4 and first consideration for] foster home placement to relatives of the child. Notwithstanding any
5 rule of the division to the contrary, grandparents who request consideration shall be given
6 preference and first consideration for foster home placement.

7 2. As used in this section, the term "relative" means a person related to another by blood
8 or affinity within the third degree. The status of a grandparent shall not be affected by the death
9 or the dissolution of the marriage of a son or daughter.

10 3. The preference for placement with relatives created by this section shall only apply
11 where the court finds that placement with such relatives is in the best interest of the child
12 considering all circumstances. **If the court finds that it is not in the best interest of a child**
13 **to be placed with relatives, the court shall make specific findings on the record detailing**
14 **the reasons why the best interests of the child necessitate placement of the child with**
15 **persons other than relatives.**

210.903. 1. To protect children, the elderly, and disabled individuals in this state, and
2 to promote family and community safety by providing information concerning family caregivers,
3 there is hereby established within the department of health and senior services a "Family Care
4 Safety Registry and Access Line" which shall be available by January 1, 2001.

5 2. The family care safety registry shall contain information on child-care workers',
6 elder-care workers', and personal-care workers' background and on child-care, elder-care and
7 personal-care providers through:

8 (1) The patrol's criminal record check system pursuant to section 43.540, RSMo,
9 including state and national information, to the extent possible;

10 (2) [Probable cause] Findings of abuse and neglect **by a preponderance of the evidence**
11 pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the
12 elderly or disabled, pursuant to section 570.145, RSMo;

13 (3) The division of aging's employee disqualification list pursuant to section 660.315,
14 RSMo;

15 (4) As of January 1, 2003, the department of mental health's employee disqualification
16 registry;

17 (5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to
18 section 210.496;

19 (6) Child-care facility license denials, revocations and suspensions pursuant to sections
20 210.201 to 210.259; and

21 (7) Residential living facility and nursing home license denials, revocations, suspensions
22 and probationary status pursuant to chapter 198, RSMo.

210.909. 1. Upon submission of a completed registration form by a child-care worker,
2 elder-care worker or personal-care attendant, the department shall:

3 (1) Determine if a [probable cause] finding of child abuse or neglect **by a**
4 **preponderance of the evidence** involving the applicant has been recorded pursuant to sections
5 210.109 to 210.183 and, as of January 1, 2003, if there is a [probable cause] finding of financial
6 exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

7 (2) Determine if the applicant has been refused licensure or has experienced involuntary
8 licensure suspension or revocation pursuant to section 210.496;

9 (3) Determine if the applicant has been placed on the employee disqualification list
10 pursuant to section 660.315, RSMo;

11 (4) As of January 1, 2003, determine if the applicant is listed on the department of
12 mental health's employee disqualification registry;

13 (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether
14 the applicant has any conviction, plea of guilty or nolo contendere, or a suspended execution of
15 sentence to a charge of any offense pursuant to chapters 198, 334, 560, 565, 566, 568, 569, 573,
16 575 and 578, RSMo; and

17 (6) If the background check involves a provider, determine if a facility has been refused
18 licensure or has experienced licensure suspension, revocation or probationary status pursuant to
19 sections 210.201 to 210.259 or chapter 198, RSMo.

20 2. Upon completion of the background check described in subsection 1 of this section,
21 the department shall include information in the registry for each registrant as to whether any
22 convictions, employee disqualification listings, registry listings, [probable cause] findings, pleas
23 of guilty or nolo contendere, or license denial, revocation or suspension have been documented
24 through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

25 3. The department shall notify such registrant in writing of the results of the
26 determination recorded on the registry pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Involving any child who is alleged to have violated a state law or municipal

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

45 (4) For the adoption of a person;

46 (5) For the commitment of a child or person seventeen years of age to the guardianship
47 of the department of social services as provided by law.

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

50 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
51 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
52 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
53 court, to the county of the child's residence or the residence of the person seventeen years of age
54 for future action;

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

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

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

70 (5) **Upon motion of any child or person seventeen years of age or his or her parent,**
71 **the court having jurisdiction shall grant a change of judge, a change of venue to the family**
72 **court or juvenile court of another judicial circuit, or both;**

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

77 3. In any proceeding involving any child or person seventeen years of age taken into
78 custody in a county other than the county of the child's residence or the residence of a person
79 seventeen years of age, the juvenile court of the county of the child's residence or the residence
80 of a person seventeen years of age shall be notified of such taking into custody within
81 seventy-two hours.

82 **4. Nothing in this section shall be construed as authorizing a juvenile officer or**
83 **deputy juvenile officer to take custody of a child or person seventeen years of age.**

211.032. 1. When a child or person seventeen years of age, alleged to be in need of care
2 and treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into
3 custody, the juvenile or family court shall **make reasonable efforts to** notify the [parties of the
4 right to have a protective custody hearing. Such notification shall be in writing.] **biological**
5 **parents, the foster parents, and the grandparents of the child, the division of family**
6 **services worker, the child abuse and neglect hotline worker, and the guardian ad litem or**
7 **court-appointed special advocate for the child of the specific date, time, and place that a**
8 **status conference will be held by the court. Such status conference shall be an open**
9 **conference and shall be held within three days of the child being taken into custody,**
10 **excluding Saturday, Sunday, and legal holidays. The inability to provide notice to any of**
11 **the persons listed in this subsection after reasonable efforts have been made or the absence**
12 **of any such persons at the status conference shall not preclude the court from conducting**
13 **the status conference as scheduled. The supreme court shall establish procedures for the**
14 **status conference held pursuant to this subsection which shall include, but not be limited**
15 **to, the following issues:**

16 **(1) Whether the child can immediately be returned to the child's home. If a child**
17 **could be returned to the home if support services are provided, such services shall be**
18 **ordered;**

19 **(2) Appointment of a guardian ad litem or court-appointed special advocate for the**
20 **child;**

21 **(3) Appointment of legal counsel;**

22 **(4) Whether paternity has been established or needs to be established;**

23 **(5) Service of process and the location of any absent parent;**

24 **(6) Whether reasonable efforts were made by the division prior to the removal or**
25 **emergency removal of the child;**

26 **(7) A contrary to welfare finding;**

27 **(8) Placement of the child and the availability of relatives of the child as the**
28 **preferred placement;**

29 **(9) Whether the removal of the child necessitates a placement which will cause a**
30 **disruption in the school currently attended by such child;**

31 **(10) Providing for visitation by the child's parents, siblings, or other family**
32 **members where appropriate;**

33 **(11) The status of any temporary assistance for needy families benefits, Social**
34 **Security benefits, or child support that is being received on behalf of the child; and**

35 **(12) Providing for any necessary evaluations, including medical or psychological**
36 **evaluations.**

37

38 **A protective custody hearing may be requested at a status conference, and if requested, a**
39 **date for such hearing shall be scheduled pursuant to subsection 2 of this section at the time**
40 **of the status conference whenever possible.**

41 2. Upon request from any party **or upon request during a status conference**, the court
42 shall hold a protective custody hearing[. Such hearing shall be held within three] **within**
43 **fourteen** days of the request for a hearing, excluding Saturdays, Sundays and legal holidays. **No**
44 **continuances shall be granted for such protective custody hearing except upon a written**
45 **motion for cause filed and signed by the party requesting the continuance and such party's**
46 **attorney.**

47 3. The court shall hold an adjudication hearing **sixty days after the child has been**
48 **taken into custody. The court shall notify the parties in writing of the specific date, time,**
49 **and place of such hearing. If at such hearing the court determines that sufficient cause**
50 **exists for the child to remain in the custody of the state, the court shall conduct a**
51 **dispositional hearing ninety days after the child has been taken into custody and shall**
52 **conduct review hearings regarding the reunification efforts made by the division every**
53 **ninety to one hundred twenty days for the first year the child is in the custody of the**
54 **division. After the first year, review hearings shall be held as necessary, but in no event**
55 **less than once every six months for as long as the child is in the custody of the division.**

56 4. At [the protective custody hearing] **all hearings held pursuant to this section** the
57 court may receive testimony and other evidence relevant to the necessity of detaining the child
58 out of the custody of the parents, guardian or custodian.

59 5. **If the placement of any child in the custody of the division of family services will**
60 **result in the child attending a school other than the school the child was attending when**
61 **taken into custody:**

62 **(1) The child's records from such school shall automatically be forwarded to the**
63 **transferring school upon notification by the division; or**

64 **(2) Upon request of the foster family and whenever possible, the child shall be**
65 **permitted to continue to attend the same school that the child was enrolled in and attending**
66 **at the time the child was taken into custody by the division. The division, in consultation**
67 **with the department of elementary and secondary education, shall establish the necessary**
68 **procedures to implement the provisions of this subdivision.**

 211.059. 1. **Any interrogation of or interview with a child taken into custody by a**
2 **juvenile officer or law enforcement official shall be audiotape recorded or videotape**
3 **recorded in its entirety, or shall be conducted in the presence of a third party who can**
4 **testify at any administrative or court proceeding as to what transpired at such**
5 **interrogation or interview. For purposes of this section, "custody" means any situation in**
6 **which a child has been deprived of his or her liberty to leave. Any failure to comply with**
7 **the provisions of this section shall render any and all statements made by the child**
8 **inadmissible in any future administrative or judicial proceeding. Each of the warnings in**
9 **subsection 2 of this section shall be given while recording or in the presence of the third**
10 **party.**

11 **2. When a child is taken into custody by a juvenile officer or law enforcement official,**
12 **[with or without a warrant for an offense in violation of the juvenile code or the general law**
13 **which would place the child under the jurisdiction of the juvenile court pursuant to subdivision**
14 **(2) or (3) of subsection 1 of section 211.031,] the child shall be advised prior to questioning:**

15 **(1) That he has the right to remain silent; and**

16 **(2) That any statement he does make to anyone can be and may be used against him; and**

17 **(3) That he has a right to have a parent, guardian or custodian present during**
18 **questioning; and**

19 **(4) That he has a right to consult with an attorney and that one will be appointed and paid**
20 **for him if he cannot afford one.**

21 **[2.] 3. If the child indicates in any manner and at any stage of questioning pursuant to**
22 **this section that he or she does not wish to be questioned further, or that the child wishes to**
23 **have his or her parent, guardian, custodian, or attorney present during questioning, the**
24 **officer shall cease questioning.**

 211.171. 1. **Except as otherwise provided in section 211.173,** the procedure to be
2 followed at the hearing shall be determined by the juvenile court judge and may be as formal or
3 informal as he or she considers desirable, consistent with constitutional and statutory
4 requirements. The judge may take testimony and inquire into the habits, surroundings,
5 conditions and tendencies of the child and the family to enable the court to render such order or

6 judgment as will best promote the welfare of the child and carry out the objectives of this
7 chapter.

8 2. The hearing may, in the discretion of the court, proceed in the absence of the child and
9 may be adjourned from time to time.

10 3. The current foster parents of a child, or any preadoptive parent or relative currently
11 providing care for the child, shall be provided with notice of, and an opportunity to be heard in,
12 any [permanency or other review] hearing to be held with respect to the child. This subsection
13 shall not be construed to require that any such foster parent, preadoptive parent or relative
14 providing care for a child be made a party to the case solely on the basis of such notice and
15 opportunity to be heard.

16 4. All cases of children shall be heard separately from the trial of cases against adults.

17 5. Stenographic notes or an authorized recording of the hearing shall be required if the
18 court so orders [or], if requested by any party interested in the proceeding, **or in accordance**
19 **with section 211.173.**

20 6. The general public shall be excluded and only such persons admitted as have a direct
21 interest in the case or in the work of the court except in cases where the child is accused of
22 conduct which, if committed by an adult, would be considered a class A or B felony; or for
23 conduct which would be considered a class C felony, if the child has previously been formally
24 adjudicated for the commission of two or more unrelated acts which would have been class A,
25 B or C felonies, if committed by an adult.

26 7. The practice and procedure customary in proceedings in equity shall govern all
27 proceedings in the juvenile court; **except that, the court shall not grant a continuance in such**
28 **proceedings absent compelling extenuating circumstances, and in such cases, the court**
29 **shall make written findings on the record detailing the specific reasons for granting a**
30 **continuance.**

31 8. The court shall allow the victim of any offense to submit a written statement to the
32 court. The court shall allow the victim to appear before the court personally or by counsel for
33 the purpose of making a statement, unless the court finds that the presence of the victim would
34 not serve justice. The statement shall relate solely to the facts of the case and any personal
35 injuries or financial loss incurred by the victim. A member of the immediate family of the victim
36 may appear personally or by counsel to make a statement if the victim has died or is otherwise
37 unable to appear as a result of the offense committed by the child.

 211.181. 1. When a child or person seventeen years of age is found by the court to come
2 within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court
3 shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child
4 or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

5 (1) Place the child or person seventeen years of age under supervision in his own home
6 or in the custody of a relative or other suitable person after the court or a public agency or
7 institution designated by the court conducts an investigation of the home, relative or person and
8 finds such home, relative or person to be suitable and upon such conditions as the court may
9 require;

10 (2) Commit the child or person seventeen years of age to the custody of:

11 (a) A public agency or institution authorized by law to care for children or to place them
12 in family homes; except that, such child or person seventeen years of age may not be committed
13 to the department of social services, division of youth services;

14 (b) Any other institution or agency which is authorized or licensed by law to care for
15 children or to place them in family homes;

16 (c) An association, school or institution willing to receive the child or person seventeen
17 years of age in another state if the approval of the agency in that state which administers the laws
18 relating to importation of children into the state has been secured; or

19 (d) The juvenile officer;

20 (3) Place the child or person seventeen years of age in a family home;

21 (4) Cause the child or person seventeen years of age to be examined and treated by a
22 physician, psychiatrist or psychologist and when the health or condition of the child or person
23 seventeen years of age requires it, cause the child or person seventeen years of age to be placed
24 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
25 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
26 of a child or person seventeen years of age whose parents or guardian in good faith are providing
27 other remedial treatment recognized or permitted under the laws of this state;

28 (5) The court may order, pursuant to subsection 2 of section 211.081, that the child
29 receive the necessary services in the least restrictive appropriate environment including home
30 and community-based services, treatment and support, based on a coordinated, individualized
31 treatment plan. The individualized treatment plan shall be approved by the court and developed
32 by the applicable state agencies responsible for providing or paying for any and all appropriate
33 and necessary services, subject to appropriation, and shall include which agencies are going to
34 pay for and provide such services. Such plan must be submitted to the court within thirty days
35 and the child's family shall actively participate in designing the service plan for the child or
36 person seventeen years of age;

37 **(6) The department of social services, in conjunction with the department of mental**
38 **health, shall apply to the United States Department of Health and Human Services for such**
39 **federal waivers as required to provide services for such children, including the acquisition**
40 **of community-based services waivers.**

41 2. When a child is found by the court to come within the provisions of subdivision (2)
42 of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact
43 upon which it exercises its jurisdiction over the child, the court may, by order duly entered,
44 proceed as follows:

45 (1) Place the child under supervision in his own home or in custody of a relative or other
46 suitable person after the court or a public agency or institution designated by the court conducts
47 an investigation of the home, relative or person and finds such home, relative or person to be
48 suitable and upon such conditions as the court may require;

49 (2) Commit the child to the custody of:

50 (a) A public agency or institution authorized by law to care for children or place them
51 in family homes; except that, a child may be committed to the department of social services,
52 division of youth services, only if he is presently under the court's supervision after an
53 adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

54 (b) Any other institution or agency which is authorized or licensed by law to care for
55 children or to place them in family homes;

56 (c) An association, school or institution willing to receive it in another state if the
57 approval of the agency in that state which administers the laws relating to importation of children
58 into the state has been secured; or

59 (d) The juvenile officer;

60 (3) Place the child in a family home;

61 (4) Cause the child to be examined and treated by a physician, psychiatrist or
62 psychologist and when the health or condition of the child requires it, cause the child to be placed
63 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
64 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
65 of a child whose parents or guardian in good faith are providing other remedial treatment
66 recognized or permitted under the laws of this state;

67 (5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.
68 Execution of any order entered by the court pursuant to this subsection, including a commitment
69 to any state agency, may be suspended and the child placed on probation subject to such
70 conditions as the court deems reasonable. After a hearing, probation may be revoked and the
71 suspended order executed.

72 3. When a child is found by the court to come within the provisions of subdivision (3)
73 of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon
74 which it exercises its jurisdiction over the child, and the court may, by order duly entered,
75 proceed as follows:

76 (1) Place the child under supervision in his own home or in custody of a relative or other

77 suitable person after the court or a public agency or institution designated by the court conducts
78 an investigation of the home, relative or person and finds such home, relative or person to be
79 suitable and upon such conditions as the court may require;

80 (2) Commit the child to the custody of:

81 (a) A public agency or institution authorized by law to care for children or to place them
82 in family homes;

83 (b) Any other institution or agency which is authorized or licensed by law to care for
84 children or to place them in family homes;

85 (c) An association, school or institution willing to receive it in another state if the
86 approval of the agency in that state which administers the laws relating to importation of children
87 into the state has been secured; or

88 (d) The juvenile officer;

89 (3) Beginning January 1, 1996, the court may make further directions as to placement
90 with the division of youth services concerning the child's length of stay. The length of stay order
91 may set forth a minimum review date;

92 (4) Place the child in a family home;

93 (5) Cause the child to be examined and treated by a physician, psychiatrist or
94 psychologist and when the health or condition of the child requires it, cause the child to be placed
95 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
96 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
97 of a child whose parents or guardian in good faith are providing other remedial treatment
98 recognized or permitted under the laws of this state;

99 (6) Suspend or revoke a state or local license or authority of a child to operate a motor
100 vehicle;

101 (7) Order the child to make restitution or reparation for the damage or loss caused by his
102 offense. In determining the amount or extent of the damage, the court may order the juvenile
103 officer to prepare a report and may receive other evidence necessary for such determination. The
104 child and his attorney shall have access to any reports which may be prepared, and shall have the
105 right to present evidence at any hearing held to ascertain the amount of damages. Any restitution
106 or reparation ordered shall be reasonable in view of the child's ability to make payment or to
107 perform the reparation. The court may require the clerk of the circuit court to act as receiving
108 and disbursing agent for any payment ordered;

109 (8) Order the child to a term of community service under the supervision of the court or
110 of an organization selected by the court. Every person, organization, and agency, and each
111 employee thereof, charged with the supervision of a child under this subdivision, or who benefits
112 from any services performed as a result of an order issued under this subdivision, shall be

113 immune from any suit by the child ordered to perform services under this subdivision, or any
114 person deriving a cause of action from such child, if such cause of action arises from the
115 supervision of the child's performance of services under this subdivision and if such cause of
116 action does not arise from an intentional tort. A child ordered to perform services under this
117 subdivision shall not be deemed an employee within the meaning of the provisions of chapter
118 287, RSMo, nor shall the services of such child be deemed employment within the meaning of
119 the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a
120 commitment to any state agency, may be suspended and the child placed on probation subject
121 to such conditions as the court deems reasonable. After a hearing, probation may be revoked and
122 the suspended order executed;

123 (9) When a child has been adjudicated to have violated a municipal ordinance or to have
124 committed an act that would be a misdemeanor if committed by an adult, assess an amount of
125 up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been
126 adjudicated to have committed an act that would be a felony if committed by an adult, assess an
127 amount of up to fifty dollars to be paid by the child to the clerk of the court.

128 4. Beginning January 1, 1996, the court may set forth in the order of commitment the
129 minimum period during which the child shall remain in the custody of the division of youth
130 services. No court order shall require a child to remain in the custody of the division of youth
131 services for a period which exceeds the child's eighteenth birth date except upon petition filed
132 by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any
133 order of commitment of a child to the custody of the division of youth services, the division shall
134 determine the appropriate program or placement pursuant to subsection 3 of section 219.021,
135 RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody
136 of the division of youth services before the child completes the length of stay determined by the
137 court in the commitment order unless the committing court orders otherwise. The director of the
138 division of youth services may at any time petition the court for a review of a child's length of
139 stay commitment order, and the court may, upon a showing of good cause, order the early
140 discharge of the child from the custody of the division of youth services. The division may
141 discharge the child from the division of youth services without a further court order after the
142 child completes the length of stay determined by the court or may retain the child for any period
143 after the completion of the length of stay in accordance with the law.

144 5. When an assessment has been imposed under the provisions of subsection 2 or 3 of
145 this section, the assessment shall be paid to the clerk of the court in the circuit where the
146 assessment is imposed by court order, to be deposited in a fund established for the sole purpose
147 of payment of judgments entered against children in accordance with section 211.185.

211.321. 1. Juvenile court proceedings shall be open to the public. The court, on

2 **its own motion, on motion of any party except the state, or on motion of the victim, may**
3 **close the proceedings to the public to protect the welfare of the child. In making such a**
4 **determination, the court shall consider the nature of the proceedings, the age and maturity**
5 **of the witness, and the preference of the witness, and the preference of the parent if the**
6 **witness is a child, that the proceedings be open or closed. All records shall be closed until**
7 **the seventy-two hour status conference is held pursuant to section 211.032 and shall be**
8 **open thereafter unless specifically closed by the court pursuant to this section.**

9 **2. A record of the proceedings shall be made and preserved by stenographic**
10 **recording or by mechanical or electronic recording as provided by law or court rule.**

11 **3. Records of the juvenile court other than those specifically ordered closed by the**
12 **juvenile court judge shall be open to the general public. Only persons who are found by**
13 **the court to have a legitimate interest shall be allowed access to the closed files. In**
14 **determining whether a person has a legitimate interest, the court shall consider the nature**
15 **of the proceedings, the welfare and safety of the public, and the interest of the minor.**

16 **4. If a motion to close the record is made pursuant to the provisions of subsection**
17 **1 of this section, the court shall hold an evidentiary hearing and if such motion is granted**
18 **the court shall fully set forth the reasons for granting such motion in the court's docket**
19 **entry.**

453.110. 1. No person, agency, organization or institution shall surrender custody of a
2 minor child, or transfer the custody of such a child to another, and no person, agency,
3 organization or institution shall take possession or charge of a minor child so transferred, without
4 first having filed a petition before the circuit court sitting as a juvenile court of the county where
5 the child may be, praying that such surrender or transfer may be made, and having obtained such
6 an order from such court approving or ordering transfer of custody.

7 2. If any such surrender or transfer is made without first obtaining such an order, such
8 court shall, on petition of any public official or interested person, agency, organization or
9 institution, order an investigation and report as described in section 453.070 to be completed by
10 the division of family services and shall make such order as to the custody of such child in the
11 best interest of such child.

12 3. Any person violating the terms of this section shall be guilty of a class D felony.

13 4. The investigation required by subsection 2 of this section shall be initiated by the
14 division of family services within forty-eight hours of the filing of the court order requesting the
15 investigation and report and shall be completed within thirty days. The court shall order the
16 person having custody in violation of the provisions of this section to pay the costs of the
17 investigation and report.

18 5. This section shall not be construed to prohibit any parent, agency, organization or

19 institution from placing a child in a [family home for care] **temporary placement, including**
 20 **but not limited to a family home; church; athletic, academic, or charitable camp;**
 21 **babysitting, military academy; child care facility; foster home; or residential care facility,**
 22 if the right to supervise the care of the child and to resume custody thereof is retained, or from
 23 placing a child with a licensed **or licensure-exempt** foster home within the state through a child
 24 placing agency licensed by this state as part of a preadoption placement.

25 6. After the filing of a petition for the transfer of custody for the purpose of adoption,
 26 the court may enter an order of transfer of custody if the court finds all of the following:

27 (1) A family assessment has been made as required in section 453.070 and has been
 28 reviewed by the court;

29 (2) A recommendation has been made by the guardian ad litem;

30 (3) A petition for transfer of custody for adoption has been properly filed or an order
 31 terminating parental rights has been properly filed;

32 (4) The financial affidavit has been filed as required under section 453.075;

33 (5) The written report regarding the child who is the subject of the petition containing
 34 the information has been submitted as required by section 453.026;

35 (6) Compliance with the Indian Child Welfare Act, if applicable; and

36 (7) Compliance with the Interstate Compact on the Placement of Children pursuant to
 37 section 210.620, RSMo.

38 7. A hearing on the transfer of custody for the purpose of adoption is not required if:

39 (1) The conditions set forth in subsection 6 of this section are met;

40 (2) The parties agree and the court grants leave; and

41 (3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.
 475.024. A parent of a minor, by a properly executed power of attorney, may delegate

2 to another individual, **child care facility, foster home, residential care facility, or child**
 3 **placing agency, whether licensed or exempt from licensure pursuant to section 210.211 or**
 4 **210.516, RSMo,** for a period not exceeding one year, any of his powers regarding care or custody
 5 of the minor child, except his power to consent to marriage or adoption of the minor child.

630.097. The department of mental health shall develop, implement, and administer
 2 **a unified accountable comprehensive children's mental health service system. To ensure**
 3 **a full breadth of services, the system of care shall include all state agencies and**
 4 **organizations involved in the lives of the children served. The Missouri system of care shall**
 5 **include collaboration with family members, the departments of health and senior services;**
 6 **social services, division of family services, division of youth services, and division of**
 7 **medical services; elementary and secondary education; mental health, division of alcohol**
 8 **and drug abuse, division of mental retardation and developmental disabilities, and division**

9 of comprehensive psychiatric services; and the office of state courts administrators,
10 juvenile justice. The department of mental health shall establish a state interagency system
11 of care team and local interagency systems of care, comprised of representation from the
12 departments of health and senior services; social services, division of family services,
13 division of youth services, and division of medical services; elementary and secondary
14 education; mental health, division of alcohol and drug abuse, division of mental
15 retardation and developmental disabilities, and division of comprehensive psychiatric
16 services; and the office of state courts administrators, juvenile justice and family members,
17 to serve children with severe emotional and behavioral disturbance problems. Local teams
18 may include child-serving agencies and schools as appropriate. The state team shall
19 collaborate to develop uniform language to be used in intake, assessment, and other tools
20 to be used with children. The system of care shall:

21 (1) Be child centered, family focused, and family driven, with the needs of the child
22 and family dictating the types and mix of services provided, and shall include the families
23 as full participants in all aspects of the planning and delivery of services;

24 (2) Provide community-based mental health services to children and their families
25 in the context in which the children live and attend school;

26 (3) Respond in a culturally competent and responsive manner;

27 (4) Stress prevention and early identification and intervention;

28 (5) Assure access to a continuum of services that:

29 (a) Educate the community about the mental health needs of children;

30 (b) Address the unique physical, emotional, social, and educational needs of
31 children;

32 (c) Are coordinated with the range of social and human services provided to
33 children and their families by the departments of elementary and secondary education,
34 social services, health and senior services, and public safety, and the family courts;

35 (d) Provide a comprehensive array of services through an individualized service
36 plan;

37 (e) Provide services in the least restrictive environment possible;

38 (f) Are appropriate to the developmental needs of children;

39 (6) Include early screening and prompt intervention to:

40 (a) Identify and treat the mental health needs of children in the least restrictive
41 environment appropriate to their needs; and

42 (b) Prevent further deterioration;

43 (7) Address the unique problems of paying for mental health services for children,
44 including:

- 45 **(a) Access to private insurance coverage;**
- 46 **(b) Public funding; and**
- 47 **(c) Private funding and services;**
- 48 **(8) Include the child and the child's family in all aspects of planning, service**
- 49 **delivery, and evaluation; and**
- 50 **(9) Assure a smooth transition from mental health services appropriate for a child**
- 51 **to mental health services needed by a person who is at least nineteen years of age.**

Section 1. The division of family services, or its successor division, shall submit
2 amendments to state plans and seek available waivers from the federal Department of
3 Health and Human Services to enhance federal reimbursement and federal administrative
4 reimbursement for foster care and adoption assistance under Title IV-E of the Social
5 Security Act and Title XIX of the Social Security Act.

Section 2. 1. If the location or identity of the natural parent or parents of a child
2 in the custody of the division is unknown, the division of family services, or its successor
3 division, shall utilize all reasonable and effective means available to conduct a diligent
4 search for the natural parent or parents of such child.

5 2. For purposes of this section, "diligent search" means the efforts of the division,
6 or an entity under contract with the division, to locate a natural parent whose identity or
7 location is unknown, initiated as soon as the division is made aware of the existence of such
8 parent, with the search progress reported at each court hearing until the parent is either
9 identified and located or the court excuses further search.

Section 3. Sections 168.283, 207.085, 210.112, 210.147, 210.160, 210.482, 210.487,
2 210.565, 211.031, 211.059, and 211.321, RSMo, shall be known and may be cited as the
3 "Dominic James Memorial Foster Care Reform Act of 2003".

Section 4. 1. The department of mental health and the department of social services
2 shall jointly prepare a plan to address the need for mental health services and supports for:

3 **(1) All of the cases in the custody of the department of social services that involve**
4 **children in the system due exclusively to a need for mental health services, and where there**
5 **is no instance of abuse, neglect, or abandonment; and**

6 **(2) Children or persons seventeen years of age who are determined by the court to**
7 **require mental health services under subdivision (5) of subsection 1 of section 211.181,**
8 **RSMo.**

9 2. Such plan shall include:

10 **(1) An analysis of federal funding, including waivers, that may be used to support**
11 **the needed mental health services and supports;**

12 **(2) An analysis of the budgetary and programmatic impact of meeting the needs**

13 **of the children and persons seventeen years of age for mental health services and supports;**
14 **and**

15 **(2) An analysis of the feasibility, including time frames, of securing federal funds**
16 **for the support of the needed mental health services and supports.**

17 **3. The plan required in this section shall be completed on or before January 1,**
18 **2004. The directors of the department of social services and the department of mental**
19 **health shall submit a copy of the plan to the governor, the president pro tem of the senate,**
20 **and the speaker of the house of representatives.**

2 [211.321. 1. Records of juvenile court proceedings as well as all information
3 obtained and social records prepared in the discharge of official duty for the court
4 shall not be open to inspection or their contents disclosed, except by order of the
5 court to persons having a legitimate interest therein, unless a petition or motion to
6 modify is sustained which charges the child with an offense which, if committed by
7 an adult, would be a class A felony under the criminal code of Missouri, or capital
8 murder, first degree murder, or second degree murder or except as provided in
9 subsection 2 of this section. In addition, whenever a report is required under section
10 557.026, RSMo, there shall also be included a complete list of certain violations of
11 the juvenile code for which the defendant had been adjudicated a delinquent while
12 a juvenile. This list shall be made available to the probation officer and shall be
13 included in the presentence report. The violations to be included in the report are
14 limited to the following: rape, sodomy, murder, kidnapping, robbery, arson, burglary
15 or any acts involving the rendering or threat of serious bodily harm. The supreme
16 court may promulgate rules to be followed by the juvenile courts in separating the
17 records.

18 2. In all proceedings under subdivisions (1) and (2) of subsection 1 of section
19 211.031, the records of the juvenile court as well as all information obtained and
20 social records prepared in the discharge of official duty for the court shall be kept
21 confidential and shall be open to inspection only by order of the judge of the juvenile
22 court or as otherwise provided by statute. In all proceedings under subdivision (3)
23 of subsection 1 of section 211.031 the records of the juvenile court as well as all
24 information obtained and social records prepared in the discharge of official duty for
25 the court shall be kept confidential and may be open to inspection without court order
26 only as follows:

27 (1) The juvenile officer is authorized at any time:

28 (a) To provide information to or discuss matters concerning the child, the
29 violation of law or the case with the victim, witnesses, officials at the child's school,
30 law enforcement officials, prosecuting attorneys, any person or agency having or
31 proposed to have legal or actual care, custody or control of the child, or any person
32 or agency providing or proposed to provide treatment of the child. Information
33 received pursuant to this paragraph shall not be released to the general public, but
34 shall be released only to the persons or agencies listed in this paragraph;

(b) To make public information concerning the offense, the substance of the

35 petition, the status of proceedings in the juvenile court and any other information
36 which does not specifically identify the child or the child's family;

37 (2) After a child has been adjudicated delinquent pursuant to subdivision (3)
38 of subsection 1 of section 211.031, for an offense which would be a felony if
39 committed by an adult, the records of the dispositional hearing and proceedings
40 related thereto shall be open to the public to the same extent that records of criminal
41 proceedings are open to the public. However, the social summaries, investigations
42 or updates in the nature of presentence investigations, and status reports submitted
43 to the court by any treating agency or individual after the dispositional order is
44 entered shall be kept confidential and shall be opened to inspection only by order of
45 the judge of the juvenile court;

46 (3) As otherwise provided by statute;

47 (4) In all other instances, only by order of the judge of the juvenile court.

48 3. Peace officers' records, if any are kept, of children shall be kept separate
49 from the records of persons seventeen years of age or over and shall not be open to
50 inspection or their contents disclosed, except by order of the court. This subsection
51 does not apply to children who are transferred to courts of general jurisdiction as
52 provided by section 211.071 or to juveniles convicted under the provisions of
53 sections 578.421 to 578.437, RSMo. This subsection does not apply to the inspection
54 or disclosure of the contents of the records of peace officers for the purpose of
55 pursuing a civil forfeiture action pursuant to the provisions of section 195.140,
56 RSMo.

57 4. Nothing in this section shall be construed to prevent the release of
58 information and data to persons or organizations authorized by law to compile
59 statistics relating to juveniles. The court shall adopt procedures to protect the
60 confidentiality of children's names and identities.

61 5. The court may, either on its own motion or upon application by the child
62 or his representative, or upon application by the juvenile officer, enter an order to
63 destroy all social histories, records, and information, other than the official court file,
64 and may enter an order to seal the official court file, as well as all peace officers'
65 records, at any time after the child has reached his seventeenth birthday if the court
66 finds that it is in the best interest of the child that such action or any part thereof be
67 taken, unless the jurisdiction of the court is continued beyond the child's seventeenth
68 birthday, in which event such action or any part thereof may be taken by the court at
69 any time after the closing of the child's case.

70 6. Nothing in this section shall be construed to prevent the release of general
71 information regarding the informal adjustment or formal adjudication of the
72 disposition of a child's case to a victim or a member of the immediate family of a
73 victim of any offense committed by the child. Such general information shall not be
74 specific as to location and duration of treatment or detention or as to any terms of
75 supervision.

76 7. Records of juvenile court proceedings as well as all information obtained
77 and social records prepared in the discharge of official duty for the court shall be

78 disclosed to the child fatality review panel reviewing the child's death pursuant to
79 section 210.192, RSMo, unless the juvenile court on its own motion, or upon
80 application by the juvenile officer, enters an order to seal the records of the victim
81 child.]