

FIRST REGULAR SESSION

# HOUSE BILL NO. 396

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WRIGHT, DIXON, VIEBROCK, MORRIS, HOLAND, MARSH,  
PHILLIPS (Co-sponsors), DOUGHERTY, SELBY, ERVIN, JONES, BOUGH AND HOBBS.

Read 1<sup>st</sup> time February 5, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0994L.021

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### AN ACT

To repeal sections 210.109 and 210.496, RSMo, and to enact in lieu thereof six new sections relating to the Dominic James Memorial Foster Care Reform Act of 2003, with penalty provisions.

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

Section A. Sections 210.109 and 210.496, RSMo, are repealed and six new sections  
2 enacted in lieu thereof, to be known as sections 207.084, 207.085, 207.095, 210.109, 210.147  
3 and 210.496, to read as follows:

**207.084. Sections 207.085 and 207.095, and sections 210.109, 210.147 and 210.496,**  
2 **RSMo, shall be known and may be cited as the "Dominic James Memorial Foster Care**  
3 **Reform Act of 2003".**

**207.085. Any officer or employee of the division of family services who intentionally**  
2 **or through gross negligence violates any stated or written policy of the division, any rule**  
3 **promulgated by the division, or any state law relating to the activities of the division may**  
4 **be personally held civilly and criminally liable for any damages resulting from such**  
5 **violation. Any officer or employee who commits such violation is guilty of a class A**  
6 **misdemeanor. If the violation results in serious physical injury or death, such officer or**  
7 **employee is guilty of a class D felony.**

**207.095. 1. Prior to becoming effective, the division shall submit for approval any**  
2 **additions, deletions, or amendments to the policy manuals of the division to a joint**  
3 **legislative committee of the senate and house of representatives to be comprised of ten**

**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 new proposed language.**

4 **members, five members from the house of representatives children and families committee,**  
5 **or its successor committee, and five members from the senate aging, families, mental and**  
6 **public health committee, or its successor committee. The respective chairs of the house and**  
7 **senate committees shall each appoint five members from the committee to serve on the joint**  
8 **legislative committee, with three members appointed from the majority party committee**  
9 **membership and two members appointed from the minority party committee membership.**

10 **2. The joint legislative committee:**

11 **(1) Shall review and approve or disapprove the submitted changes to the policy**  
12 **manuals of the division; and**

13 **(2) May amend as necessary the policy manuals of the division without any**  
14 **submissions by the division.**

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 **and social security number or any**  
14 **other officially recognized identification number which can be readily verified** of any person  
15 making a report in all cases, after obtaining relevant information regarding the alleged abuse or  
16 neglect[, although reports may be made anonymously];

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

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

25 (6) Collaborate with the community to identify comprehensive local services and assure

26 access to those services for children and families where there is risk of abuse or neglect;

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

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30 As used in this subsection, "report" includes any telephone call made pursuant to section  
31 210.145.

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

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

**210.147. 1. All meetings and hearings held in relation to the removal of a child  
2 from the child's home by a juvenile officer or the division shall be recorded through the use  
3 of either audiotape or videotape equipment, or both, as determined by the division, and  
4 shall be transcribed by the division at the expense of the requesting party upon order of  
5 a court of competent jurisdiction. Any parent of a child that is the subject of such meetings  
6 and hearings may record such meetings and hearings or request a copy of the recording  
7 made by the division pursuant to this section. The division shall maintain the such  
8 recorded material for a period of six months after the case that is the subject of such  
9 meetings and hearings is closed by the division. Such information, except for identifying  
10 information and information mutually agreed upon to be confidential, shall be considered  
11 a public record.**

**12 2. The division shall not require persons testifying or providing information at any  
13 meeting or hearing held in relation to the removal of a child from the child's home to sign  
14 a confidentiality agreement before testifying or providing information. Nothing in this  
15 subsection shall prohibit the division and such persons from entering into a confidentiality  
16 agreement by mutual consent.**

210.496. 1. The division may refuse to issue either a license or a provisional license to  
2 an applicant, or may suspend or revoke the license or provisional license of a licensee, who:

3 (1) Fails consistently to comply with the applicable provisions of sections 208.400 to  
4 210.535 and the applicable rules promulgated thereunder;

5 (2) Violates any of the provisions of its license;

6 (3) Violates state laws or rules relating to the protection of children;

7 (4) Furnishes or makes any misleading or false statements or reports to the division;

8 (5) Refuses to submit to the division any reports or refuses to make available to the  
9 division any records required by the division in making an investigation;

10 (6) Fails or refuses to admit authorized representatives of the division at any reasonable  
11 time for the purpose of investigation;

12 (7) Fails or refuses to submit to an investigation by the division;

13 (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition the  
14 premises established or used for the care of children being served, as required by law, rule, or  
15 ordinance applicable to the location of the foster home or residential care facility; or

16 (9) Fails to provide financial resources adequate for the satisfactory care of and services  
17 to children being served and the upkeep of the premises.

18 **2. The division shall refuse to issue a license or a provisional license to an applicant,**  
19 **or shall suspend or revoke the license or provisional license of a licensee, who has been**  
20 **found guilty of or entered a plea of guilty or nolo contendere to any offense involving an**  
21 **act of violence.**