

FIRST REGULAR SESSION

HOUSE BILL NO. 485

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JOHNSON (90) AND BYRD (Co-sponsors).

Read 1st time February 17, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0717L.021

AN ACT

To repeal sections 210.145 and 211.462, RSMo, and to enact in lieu thereof two new sections relating to services for children and minors.

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

Section A. Sections 210.145 and 211.462, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.145 and 211.462, to read as follows:

210.145. 1. The division shall establish and maintain an information system operating
2 at all times, capable of receiving and maintaining reports. This information system shall have
3 the ability to receive reports over a single, statewide toll-free number. Such information system
4 shall maintain the results of all investigations, family assessments and services, and other
5 relevant information.

6 2. Upon receipt of a report, the division shall immediately communicate such report to
7 its appropriate local office and any relevant information as may be contained in the information
8 system. The local division staff shall determine, through the use of protocols developed by the
9 division, whether an investigation or the family assessment and services approach should be used
10 to respond to the allegation. The protocols developed by the division shall give priority to
11 ensuring the well-being and safety of the child.

12 3. The local office shall contact the appropriate law enforcement agency immediately
13 upon receipt of a report which division personnel determine merits an investigation, or, which,
14 if true, would constitute a suspected violation of any of the following: section 565.020, 565.021,
15 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age,
16 section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or

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.

17 other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and
18 the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a
19 child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060,
20 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to
21 commit any such crimes. The local office shall provide such agency with a detailed description
22 of the report received. In such cases the local division office shall request the assistance of the
23 local law enforcement agency in all aspects of the investigation of the complaint. The
24 appropriate law enforcement agency shall either assist the division in the investigation or provide
25 the division, within twenty-four hours, an explanation in writing detailing the reasons why it is
26 unable to assist.

27 4. The local office of the division shall cause an investigation or family assessment and
28 services approach to be initiated immediately or no later than within twenty-four hours of receipt
29 of the report from the division, except in cases where the sole basis for the report is educational
30 neglect. If the report indicates that educational neglect is the only complaint and there is no
31 suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours
32 of receipt of the report. If the report indicates the child is in danger of serious physical harm or
33 threat to life, an investigation shall include direct observation of the subject child within
34 twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary
35 steps to facilitate such direct observation. If the parents of the child are not the alleged abusers[,
36 the parents] **and the abuse is alleged to have occurred in a school or child care facility, a**
37 **parent** of the child must be notified prior to the child being interviewed by the division. The
38 division shall not meet with the child [in any location where abuse of such child is alleged to
39 have occurred] **at the child's school or child care facility**. When the child is reported absent
40 from the residence, the location and the well-being of the child shall be verified.

41 5. The director of the division shall name at least one chief investigator for each local
42 division office, who shall direct the division response on any case involving a second or
43 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
44 investigator shall include verification of direct observation of the subject child by the division
45 and shall ensure information regarding the status of an investigation is provided to the public
46 school district liaison. The public school district liaison shall develop protocol in conjunction
47 with the chief investigator to ensure information regarding an investigation is shared with
48 appropriate school personnel. The superintendent of each school district shall designate a
49 specific person or persons to act as the public school district liaison. Should the subject child
50 attend a nonpublic school the chief investigator shall notify the school principal of the
51 investigation. Upon notification of an investigation, all information received by the public
52 school district liaison or the school shall be subject to the provisions of the federal Family

53 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
54 C.F.R., Part 99.

55 6. The investigation shall include but not be limited to the nature, extent, and cause of
56 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
57 names and conditions of other children in the home, if any; the home environment and the
58 relationship of the subject child to the parents or other persons responsible for the child's care;
59 any indication of incidents of physical violence against any other household or family member;
60 and other pertinent data.

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

65 8. Upon completion of the investigation, if the division suspects that the report was made
66 maliciously or for the purpose of harassment, the division shall refer the report and any evidence
67 of malice or harassment to the local prosecuting or circuit attorney.

68 9. Multidisciplinary teams shall be used whenever conducting the investigation as
69 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
70 shall be used in providing protective or preventive social services, including the services of law
71 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
72 other agencies, both public and private.

73 10. If the appropriate local division personnel determine after an investigation has begun
74 that completing an investigation is not appropriate, the division shall conduct a family
75 assessment and services approach. The division shall provide written notification to local law
76 enforcement prior to terminating any investigative process. The reason for the termination of
77 the investigative process shall be documented in the record of the division and the written
78 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
79 any investigation by law enforcement.

80 11. If the appropriate local division personnel determines to use a family assessment and
81 services approach, the division shall:

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

84 (2) Provide services which are voluntary and time-limited unless it is determined by the
85 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
86 family refuses to accept the services. The division shall identify services for families where it
87 is determined that the child is at high risk of future abuse or neglect. The division shall
88 thoroughly document in the record its attempt to provide voluntary services and the reasons these

89 services are important to reduce the risk of future abuse or neglect to the child. If the family
90 continues to refuse voluntary services or the child needs to be protected, the division may
91 commence an investigation;

92 (3) Commence an immediate investigation if at any time during the family assessment
93 and services approach the division determines that an investigation, as delineated in sections
94 210.109 to 210.183, is required. The division staff who have conducted the assessment may
95 remain involved in the provision of services to the child and family;

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

98 12. Within thirty days of an oral report of abuse or neglect, the local office shall update
99 the information in the information system. The information system shall contain, at a minimum,
100 the determination made by the division as a result of the investigation, identifying information
101 on the subjects of the report, those responsible for the care of the subject child and other relevant
102 dispositional information. The division shall complete all investigations within thirty days,
103 unless good cause for the failure to complete the investigation is documented in the information
104 system. If the investigation is not completed within thirty days, the information system shall be
105 updated at regular intervals and upon the completion of the investigation. The information in
106 the information system shall be updated to reflect any subsequent findings, including any
107 changes to the findings based on an administrative or judicial hearing on the matter.

108 13. A person required to report under section 210.115 to the division shall be informed
109 by the division of his right to obtain information concerning the disposition of his or her report.
110 Such person shall receive, from the local office, if requested, information on the general
111 disposition of his or her report. A person required to report to the division pursuant to section
112 210.115 may receive, if requested, findings and information concerning the case. Such release
113 of information shall be at the discretion of the director based upon a review of the mandated
114 reporter's ability to assist in protecting the child or the potential harm to the child or other
115 children within the family. The local office shall respond to the request within forty-five days.
116 The findings shall be made available to the mandated reporter within five days of the outcome
117 of the investigation.

118 14. In any judicial proceeding involving the custody of a child the fact that a report may
119 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However,
120 nothing in this subsection shall prohibit the introduction of evidence from independent sources
121 to support the allegations that may have caused a report to have been made.

122 15. In any judicial proceeding involving the custody of a child where the court
123 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
124 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall

125 not be entered into the registry.

126 16. The division of family services is hereby granted the authority to promulgate rules
127 and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo,
128 to carry out the provisions of sections 210.109 to 210.183.

129 17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
130 is created under the authority delegated in this section shall become effective only if it complies
131 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
132 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
133 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
134 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
135 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
136 invalid and void.

 211.462. 1. In all actions to terminate parental rights, if not previously appointed
2 pursuant to section 210.160, RSMo, a guardian ad litem shall be appointed for the child as soon
3 as practicable after the filing of the petition.

4 2. The parent or guardian of the person of the child shall be notified of the right to have
5 counsel, and if they request counsel and are financially unable to employ counsel, counsel shall
6 be appointed by the court. **The court-appointed counsel shall be awarded a reasonable fee**
7 **for such services to be set by the court.** Notice of this provision shall be contained in the
8 summons. When the parent is a minor or incompetent the court shall appoint a guardian ad litem
9 to represent such parent.

10 3. The guardian ad litem shall, during all stages of the proceedings:

11 (1) Be the legal representative of the child, and may examine, cross-examine, subpoena
12 witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any
13 disposition that he determines to be adverse to the best interests of the child;

14 (2) Be an advocate for the child during the dispositional hearing and aid in securing a
15 permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments,
16 and attitudes, he shall conduct all necessary interviews with persons, other than the parent,
17 having contact with or knowledge of the child and, if appropriate, with the child;

18 (3) Protect the rights, interest and welfare of a minor or incompetent parent by exercising
19 the powers and duties enumerated in subdivisions (1) and (2) of this subsection;

20 (4) **Be awarded a reasonable fee for the provision of such services to be set by the**
21 **court.**

22 4. Court costs shall be paid by the county in which the proceeding is instituted, except
23 that the court may require the agency or person having or receiving legal or actual custody to pay
24 the costs.