

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1453
92ND GENERAL ASSEMBLY

Reported from the Committee on Children and Families, March 16, 2004, with recommendation that the House Committee Substitute for House Bill No. 1453 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

2427L.02C

AN ACT

To repeal sections 26.740, 43.503, 43.540, 135.327, 135.333, 207.050, 207.060, 208.152, 208.204, 210.025, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 452.375, 452.400, 453.110, 475.024, 491.075, 492.304, 537.046, 630.210, and 701.336, RSMo, and to enact in lieu thereof seventy-one new sections relating to the state foster care and protective services for children, with penalty provisions and an emergency clause.

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

Section A. Sections 26.740, 43.503, 43.540, 135.327, 135.333, 207.050, 207.060, 208.152, 208.204, 210.025, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 452.375, 452.400, 453.110, 475.024, 491.075, 492.304, 537.046, 630.210, and 701.336, RSMo, are repealed and seventy-one new sections enacted in lieu thereof, to be known as sections 37.699, 37.700, 37.705, 37.710, 37.715, 37.725, 37.730, 43.503, 43.540, 135.327, 135.333, 168.283, 191.748, 207.050, 207.060, 207.085, 208.152, 208.204, 208.647, 210.025, 210.109, 210.110, 210.111, 210.112, 210.113, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.201, 210.211, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181,

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.

12 211.319, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 452.375, 452.400, 453.110,
13 475.024, 491.075, 492.304, 537.046, 630.097, 630.210, 701.336, 1, and 2, to read as follows:

37.699. Sections 37.700 to 37.730, 168.283, 191.748, 207.085, 210.109, 210.110,
2 210.111, 210.112, 210.113, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160,
3 210.183, 210.187, 210.188, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760,
4 210.762, 211.031, 211.032, 211.059, 211.319, and 537.046, RSMo, shall be known and may
5 be cited as the "Dominic James Memorial Foster Care Reform Act of 2004".

37.700. As used in sections 37.700 to 37.725, the following terms mean:

2 (1) "Office", the office of the child advocate for children's protection and services
3 within the office of administration, which shall include the child advocate and staff;

4 (2) "Recipient", any child who is receiving child welfare services from the
5 department of social services or its contractors, or services from the department of mental
6 health.

37.705. 1. There is hereby established within the office of administration the
2 "Office of Child Advocate for Children's Protection and Services", for the purpose of
3 assuring that children receive adequate protection and care from services, programs
4 offered by the department of social services, or the department of mental health, or the
5 juvenile court. The child advocate shall report directly to the commissioner of the office
6 of administration.

7 2. The office shall be administered by the child advocate, who shall be appointed
8 jointly by the governor and the chief justice of the Missouri supreme court with the advice
9 and consent of the senate. The child advocate shall hold office for a term of six years and
10 shall continue to hold office until a successor has been duly appointed. The advocate shall
11 act independently of the department of social services, the department of mental health,
12 and the juvenile court in the performance of his or her duties. The office of administration
13 shall provide administrative support and staff as deemed necessary.

37.710. 1. The office shall have access to the following information:

2 (1) The names and physical location of all children in protective services, treatment,
3 or other programs under the jurisdiction of the department of social services, the
4 department of mental health, and the juvenile court;

5 (2) All written reports of child abuse and neglect; and

6 (3) All current records required to be maintained pursuant to chapters 210 and
7 211, RSMo.

8 2. The office shall have the authority:

9 (1) To communicate privately by any means possible with any child in treatment
10 or under protective services and anyone working with the child, including the family,

11 relatives, courts, employees of the department of social services and the department of
12 mental health, and other persons or entities providing treatment and services;

13 (2) To have access, including the right to inspect, copy and subpoena records held
14 by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies,
15 institutions, public or private, and other agencies, or persons with whom a particular child
16 has been either voluntarily or otherwise placed for care, or has received treatment within
17 this state or in another state;

18 (3) To work in conjunction with juvenile officers and guardians ad litem;

19 (4) To file amicus curiae briefs on behalf of the interests of the parent or child;

20 (5) To initiate meetings with the department of social services, the department of
21 mental health, the juvenile court, and juvenile officers;

22 (6) To take whatever steps are appropriate to see that persons are made aware of
23 the services of the child advocate's office, its purpose, and how it can be contacted; and

24 (7) To apply for and accept grants, gifts, and bequests of funds from other states,
25 federal, and interstate agencies, and independent authorities, private firms, individuals,
26 and foundations to carry out his or her duties and responsibilities. The funds shall be
27 deposited in a dedicated account established within the office to permit moneys to be
28 expended in accordance with the provisions of the grant or bequest.

37.715. 1. The office shall establish and implement procedures for receiving,
2 processing, responding to, and resolving complaints made by or on behalf of children who
3 are recipients of the services of the departments of social services and mental health, and
4 the juvenile court. Such procedures shall address complaints relating to the actions,
5 inactions, or decisions of providers or their representatives, public or private child welfare
6 agencies, social service agencies, or the courts which may adversely affect the health, safety,
7 welfare, or rights of such recipient.

8 2. The office shall establish and implement procedures for the handling and,
9 whenever possible, the resolution of complaints.

10 3. The office shall have the authority to make the necessary inquiries and review
11 relevant information and records as the office deems necessary.

12 4. The office may recommend to any state or local agency changes in the rules
13 adopted or proposed by such state or local agency which adversely affect or may adversely
14 affect the health, safety, welfare, or civil or human rights of any recipient. The office shall
15 make recommendations on changes to any current policies and procedures. The office shall
16 analyze and monitor the development and implementation of federal, state and local laws,
17 regulations and policies with respect to services in the state and shall recommend to the
18 department, courts, general assembly, and governor changes in such laws, regulations and

19 policies deemed by the office to be appropriate.

20 **5. The office shall inform recipients, their guardians or their families of their rights**
21 **and entitlements under state and federal laws and regulations through the distribution of**
22 **educational materials.**

23 **6. The office shall annually submit to the governor, the general assembly, and the**
24 **Missouri supreme court a detailed report on the work of the office of the child advocate for**
25 **children's protection and services. Such report shall include, but not be limited to, the**
26 **number of complaints received by the office, the disposition of such complaints, the**
27 **number of recipients involved in complaints, the state entities named in complaints and**
28 **whether such complaints were found to be substantiated, and any recommendations for**
29 **improving the delivery of services to reduce complaints or improving the function of the**
30 **office of the child advocate for children's protection and services.**

37.725. 1. Any files maintained by the advocate program shall be disclosed only at
2 **the discretion of the child advocate; except that the identity of any complainant or recipient**
3 **shall not be disclosed by the office unless:**

4 **(1) The complainant or recipient, or the complainant's or recipient's legal**
5 **representative, consents in writing to such disclosure; or**

6 **(2) Such disclosure is required by court order.**

7 **2. Any statement or communication made by the office relevant to a complaint**
8 **received by, proceedings before, or activities of the office and any complaint or information**
9 **made or provided in good faith by any person shall be absolutely privileged and such**
10 **person shall be immune from suit.**

11 **3. Any representative of the office conducting or participating in any examination**
12 **of a complaint who knowingly and willfully discloses to any person other than the office,**
13 **or those persons authorized by the office to receive it, the name of any witness examined**
14 **or any information obtained or given during such examination is guilty of a class A**
15 **misdemeanor. However, the office conducting or participating in any examination of a**
16 **complaint shall disclose the final result of the examination with the consent of the recipient.**

17 **4. The office shall not be required to testify in any court with respect to matters**
18 **held to be confidential in this section except as the court may deem necessary to enforce the**
19 **provisions of sections 37.700 to 37.725, or where otherwise required by court order.**

37.730. 1. Any employee or an unpaid volunteer of the office shall be treated as a
2 **representative of the office. No representative of the office shall be held liable for good**
3 **faith performance of his or her official duties under the provisions of sections 37.700 to**
4 **37.725 and such representative shall be immune from suit for the good faith performance**
5 **of such duties. Every representative of the office shall be considered a state employee**

6 under section 105.711, RSMo.

7 **2. No reprisal or retaliatory action shall be taken against any recipient or employee**
8 **of the departments or courts for any communication made or information given to the**
9 **office. Any person who knowingly or willfully violates the provisions of this subsection is**
10 **guilty of a class A misdemeanor.**

43.503. 1. For the purpose of maintaining complete and accurate criminal history record
2 information, all police officers of this state, the clerk of each court, the department of corrections,
3 the sheriff of each county, the chief law enforcement official of a city not within a county and
4 the prosecuting attorney of each county or the circuit attorney of a city not within a county shall
5 submit certain criminal arrest, charge, and disposition information to the central repository for
6 filing without undue delay in the form and manner required by sections 43.500 to 43.543.

7 2. All law enforcement agencies making misdemeanor and felony arrests as determined
8 by section 43.506 shall furnish without undue delay, to the central repository, fingerprints,
9 charges, appropriate charge codes, and descriptions of all persons who are arrested for such
10 offenses on standard fingerprint forms supplied or approved by the highway patrol or
11 electronically in a format and manner approved by the highway patrol. All such agencies shall
12 also notify the central repository of all decisions not to refer such arrests for prosecution. An
13 agency making such arrests may enter into arrangements with other law enforcement agencies
14 for the purpose of furnishing without undue delay such fingerprints, charges, appropriate charge
15 codes, and descriptions to the central repository upon its behalf.

16 3. In instances where an individual less than seventeen years of age and not currently
17 certified as an adult is taken into custody for an offense which would be a felony if committed
18 by an adult, the arresting officer shall take fingerprints for the central repository. These
19 fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol
20 or transmitted electronically in a format and manner approved by the highway patrol. The
21 fingerprint cards shall be so constructed that the name of the juvenile should not be made
22 available to the central repository. The individual's name and the unique number associated with
23 the fingerprints and other pertinent information shall be provided to the court of jurisdiction by
24 the agency taking the juvenile into custody. The juvenile's fingerprints and other information
25 shall be forwarded to the central repository and the courts without undue delay. The fingerprint
26 information from the card shall be captured and stored in the automated fingerprint identification
27 system operated by the central repository. In the event the fingerprints are found to match other
28 tenprints or unsolved latent prints, the central repository shall notify the submitting agency who
29 shall notify the court of jurisdiction as per local agreement.

30 4. Upon certification of the individual as an adult, the **certifying** court shall order a law
31 enforcement agency to immediately fingerprint the individual. The law enforcement agency shall

32 submit such fingerprints to the central repository within fifteen days and shall furnish the offense
33 cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney
34 of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the
35 juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney
36 shall notify within fifteen days the central repository of the change of status of the juvenile.
37 Records of a child who has been fingerprinted and photographed after being taken into custody
38 shall be closed records as provided under section 610.100, RSMo, if a petition has not been filed
39 within thirty days of the date that the child was taken into custody; and if a petition for the child
40 has not been filed within one year of the date the child was taken into custody, any records
41 relating to the child concerning the alleged offense may be expunged under the procedures in
42 sections 610.122 to 610.126, RSMo.

43 5. The prosecuting attorney of each county or the circuit attorney of a city not within a
44 county shall notify the central repository on standard forms supplied by the highway patrol or in
45 a manner approved by the highway patrol of all charges filed, including all those added
46 subsequent to the filing of a criminal court case, and whether charges were not filed in criminal
47 cases for which the central repository has a record of an arrest. All records forwarded to the
48 central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530
49 shall include the state offense cycle number of the offense, the charge code for the offense, and
50 the originating agency identifier number of the reporting prosecutor, using such numbers as
51 assigned by the highway patrol.

52 6. The clerk of the courts of each county or city not within a county shall furnish the
53 central repository, on standard forms supplied by the highway patrol or in a manner approved by
54 the highway patrol, with all final dispositions of cases for which the central repository has a
55 record of an arrest or a record of fingerprints reported pursuant to sections 43.500 to 43.506.
56 Such information shall include, for each charge:

57 (1) All judgments of not guilty, acquittals on the ground of mental disease or defect
58 excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation,
59 if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

60 (2) Court orders filed with the clerk of the courts which reverse a reported conviction
61 or vacate or modify a sentence;

62 (3) Judgments terminating or revoking a sentence to probation, supervision or
63 conditional release and any resentencing after such revocation; and

64 (4) The offense cycle number of the offense, and the originating agency identifier
65 number of the sentencing court, using such numbers as assigned by the highway patrol.

66 7. The clerk of the courts of each county or city not within a county shall furnish, to the
67 department of corrections or department of mental health, court judgment and sentence

68 documents and the state offense cycle number and the charge code of the offense which resulted
69 in the commitment or assignment of an offender to the jurisdiction of the department of
70 corrections or the department of mental health if the person is committed pursuant to chapter
71 552, RSMo. This information shall be reported to the department of corrections or the
72 department of mental health at the time of commitment or assignment. If the offender was
73 already in the custody of the department of corrections or the department of mental health at the
74 time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction
75 to the appropriate department by certified mail, return receipt requested, or in a manner and
76 format mutually agreed to, within fifteen days of such disposition.

77 8. Information and fingerprints, and other indicia forwarded to the central repository,
78 normally obtained from a person at the time of the arrest, may be obtained at any time the subject
79 is in the criminal justice system or committed to the department of mental health. A law
80 enforcement agency or the department of corrections may fingerprint the person and obtain the
81 necessary information at any time the subject is in custody. If at the time of disposition, the
82 defendant has not been fingerprinted for an offense in which a fingerprint is required by statute
83 to be collected, maintained, or disseminated by the central repository, the court shall order a law
84 enforcement agency to fingerprint immediately the defendant. The law enforcement agency shall
85 submit such fingerprints to the central repository without undue delay and within thirty days and
86 shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney
87 or the circuit attorney of a city not within a county and to the court clerk of the court ordering the
88 subject fingerprinted.

89 9. The department of corrections and the department of mental health shall furnish the
90 central repository with all information concerning the receipt, escape, execution, death, release,
91 pardon, parole, commutation of sentence, granting of executive clemency, legal name change,
92 or discharge of an individual who has been sentenced to that department's custody for any
93 offenses which are mandated by law to be collected, maintained or disseminated by the central
94 repository. All records forwarded to the central repository by the department as required by
95 sections 43.500 to 43.543 shall include the offense cycle number of the offense, and the
96 originating agency identifier number of the department using such numbers as assigned by the
97 highway patrol.

43.540. 1. As used in this section, the following terms mean:

2 (1) "Authorized state agency", a division of state government or an office of state
3 government designated by the statutes of Missouri to issue or renew a license, permit,
4 certification, or registration of authority to a qualified entity;

5 (2) "Care", the provision of care, treatment, education, training, instruction, supervision,
6 or recreation;

7 (3) "Missouri criminal record review", a review of criminal history records or sex
8 offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the
9 Missouri state highway patrol in the Missouri criminal records repository;

10 (4) "National criminal record review", a review of the criminal history records
11 maintained by the Federal Bureau of Investigation;

12 (5) "Patient or resident", a person who by reason of age, illness, disease or physical or
13 mental infirmity receives or requires care or services furnished by a provider, as defined in this
14 section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in
15 a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive
16 hours;

17 (6) "Provider", a person who:

18 (a) Has or may have unsupervised access to children, the elderly, or persons with
19 disabilities; and

20 (b) **a.** Is employed by or seeks employment with a qualified entity; or

21 [(c)] **b.** Volunteers or seeks to volunteer with a qualified entity; or

22 [(d)] **c.** Owns or operates a qualified entity;

23 (7) "Qualified entity", a person, business, or organization, whether public or private, for
24 profit, not for profit, or voluntary, that provides care, placement, or educational services for
25 children, the elderly, or persons with disabilities as patients or residents, including a business or
26 organization that licenses or certifies others to provide care or placement services;

27 (8) "Youth services agency", any public or private agency, school, or association which
28 provides programs, care or treatment for or which exercises supervision over minors.

29 2. A qualified entity may obtain a Missouri criminal record review of a provider from
30 the highway patrol by furnishing information on forms and in the manner approved by the
31 highway patrol.

32 3. A qualified entity may request a Missouri criminal record review and a national
33 criminal record review of a provider through an authorized state agency. No authorized state
34 agency is required by this section to process Missouri or national criminal record reviews for a
35 qualified entity, however, if an authorized state agency agrees to process Missouri and national
36 criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized
37 state agency on forms and in a manner approved by the highway patrol the following:

38 (1) Two sets of fingerprints of the provider **if a national criminal record review is**
39 **requested;**

40 (2) A statement signed by the provider which contains:

41 (a) The provider's name, address, and date of birth;

42 (b) Whether the provider has been convicted of or has pled guilty to a crime which

43 includes a suspended imposition of sentence;

44 (c) If the provider has been convicted of or has pled guilty to a crime, a description of
45 the crime, and the particulars of the conviction or plea;

46 (d) The authority of the qualified entity to check the provider's criminal history;

47 (e) The right of the provider to review the report received by the qualified entity; and

48 (f) The right of the provider to challenge the accuracy of the report. If the challenge is
49 to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

50 4. The authorized state agency shall forward the required forms and fees to the highway
51 patrol. The results of the record review shall be forwarded to the authorized state agency who
52 will notify the qualified entity. The authorized state agency may assess a fee to the qualified
53 entity to cover the cost of handling the criminal record review and may establish an account
54 solely for the collection and dissemination of fees associated with the criminal record reviews.

55 5. Any information received by an authorized state agency or a qualified entity pursuant
56 to the provisions of this section shall be used solely for internal purposes in determining the
57 suitability of a provider. The dissemination of criminal history information from the Federal
58 Bureau of Investigation beyond the authorized state agency or related governmental entity is
59 prohibited. All criminal record check information shall be confidential and any person who
60 discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

61 6. The highway patrol shall make available or approve the necessary forms, procedures,
62 and agreements necessary to implement the provisions of this section.

135.327. 1. Any [person] **individual** residing in this state who legally adopts a special
2 needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive
3 a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child
4 adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity
5 providing funds to an employee to enable that employee to legally adopt a special needs child
6 shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption
7 expenses for each child adopted that may be applied to taxes due under such business entity's
8 state tax liability, except that only one ten thousand dollar credit is available for each special
9 needs child that is adopted.

10 2. Any [person] **individual** residing in this state who proceeds in good faith with the
11 adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax
12 credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may
13 be applied to taxes due under chapter 143, RSMo, **or which shall be refunded in an amount**
14 **in excess of the individual's tax liability for the year in which the credit is claimed.** Any
15 business entity providing funds to an employee to enable that employee to proceed in good faith
16 with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten

17 thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes
18 due under such business entity's state tax liability, except that only one ten thousand dollar credit
19 is available for each special needs child that is adopted.

20 3. Individuals and business entities may claim a tax credit for their total nonrecurring
21 adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the
22 credit shall be allowed when the child is placed in the home. A claim for the remaining fifty
23 percent shall be allowed when the adoption is final. The total of these tax credits shall not
24 exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax
25 credits which may be claimed by taxpayers **claiming the credit** for nonrecurring adoption
26 expenses **on behalf of a business entity's employee** in any one fiscal year shall not exceed two
27 million dollars.

28 4. Notwithstanding any provision of law to the contrary, any individual or business entity
29 may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed
30 pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount
31 sold.

135.333. 1. **Except as provided in subsection 2 of section 135.327**, any amount of tax
2 credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent
3 taxable year, not to exceed a total of five years for which a tax credit may be taken for each child
4 adopted.

5 2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may
6 be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

168.283. 1. No person employed by a school after January 1, 2005, and no person
2 **employed by a school for less than two years who has any relevant negative history in his**
3 **or her personnel file with the school, including but not limited to, administrators, teachers,**
4 **aides, paraprofessionals, assistants, secretaries, custodians, cooks, nurses, and bus drivers,**
5 **shall have unsupervised contact with pupils until a criminal history background check has**
6 **been conducted. The results of the background check shall be sent to the employing school**
7 **district. Any person required to submit to a criminal background check pursuant to this**
8 **section shall be required to submit to the Federal Bureau of Investigation background**
9 **check, but may register with the family care safety registry and access line pursuant to**
10 **sections 210.900 to 210.937 in lieu of the required highway patrol background check.**

11 **2. To facilitate the criminal history background check on any person employed by**
12 **the school, such person shall submit two sets of fingerprints collected pursuant to**
13 **standards determined by the highway patrol. One set of fingerprints shall be used by the**
14 **highway patrol to search the criminal history repository and the second set shall be**
15 **forwarded to the Federal Bureau of Investigation for searching the federal criminal history**

16 files.

17 **3. Any fees for the state criminal history record information pursuant to section**
18 **43.530, RSMo, and for the federal criminal history record by the Federal Bureau of**
19 **Investigation shall be paid by the employee. The department shall distribute the fees**
20 **collected for the state and federal criminal histories to the highway patrol.**

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

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

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

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

37 **8. This section shall become effective January 1, 2005.**

191.748. Every hospital and any health care facility licensed in this state that
2 **provides obstetrical services shall require all new mothers to view a video on the dangers**
3 **of shaking a baby and shaken baby syndrome before their discharge from the facility.**
4 **Such video shall be approved by the department of health and senior services and shall not**
5 **exceed ten minutes in length.**

207.050. In every county there [shall] may be established a county family services
2 **commission to consist of four persons, two from each of the two major political parties, to be**
3 **selected by the director of social services from a list submitted to the director of the department**
4 **of social services by the county commission, consisting of double the number of appointments**
5 **to be made. Each member of the county family services commission shall serve for a term of**
6 **four years. Vacancies shall be filled in the same way in which the original appointment was**
7 **made. [If the county commission fails or refuses to submit a list to the director of social services**
8 **as required by this section for the appointment of members of the county family services**
9 **commission within ten days after such appointments are to be made the director of social**

10 services shall make such appointments as may be necessary from a list prepared by the director
11 of social services.] The duties of the county family services commission shall be advisory in
12 nature with the power to examine the records of any case pending within their county and to
13 make recommendations thereon. They shall serve without compensation, but shall be paid their
14 traveling expenses and other necessary expense in the performance of their duty. No elective
15 officer shall be appointed as a member of the county family services commission, and upon
16 becoming a candidate for any elective office, such member of the county family services
17 commission shall forthwith forfeit his **or her** position on the commission. Duties imposed by
18 this law upon the several county commissions shall be performed in the city of St. Louis by the
19 board of estimate and apportionment.

207.060. 1. The [director of family services shall establish] **directors of the support**
2 **division and children's division shall jointly operate and maintain** a county office in every
3 county, which may be in the charge of a county welfare director who shall have been a resident
4 of the state of Missouri for a period of at least two years immediately prior to taking office and
5 whose salary shall be paid from funds appropriated for the **family support** division [of family
6 services] **and children's division**.

7 2. For the purpose of establishing and maintaining county offices, or carrying out any
8 of the duties of the [division of family services] **divisions**, the [director of family services]
9 **division directors** may enter into agreements with any political subdivision of this state, and as
10 a part of such agreement, may accept moneys, services, or quarters as a contribution toward the
11 support and maintenance of such county offices. Any funds so received shall be payable to the
12 director of revenue and deposited in the proper special account in the state treasury, and become
13 and be a part of state funds appropriated for the use of the [division of family services] **family**
14 **support division and children's division**.

15 3. Other employees in the county offices shall be employed with due regard to the
16 population of the county, existing conditions and purpose to be accomplished. Such employees
17 shall be paid as are other employees of the [division of family services] **family support division**
18 **and children's division**.

207.085. 1. Any employee of the children's division, including supervisory
2 **personnel and private contractors with the division, who is involved with child protective**
3 **services and purposely, knowingly, and willfully violates a stated or written policy of the**
4 **division, any rule promulgated by the division, or any state law directly related to the child**
5 **abuse and neglect activities of the division shall be dismissed if the violation directly results**
6 **in serious physical injury or death, subject to the provisions of subsection 2 of this section.**
7 **The provisions of this section shall apply to merit system employees of the division, as well**
8 **as all other employees of the division, and upon a showing of a violation, such employees**

9 shall be dismissed for cause, subject to the provisions of subsection 2 of this section, and
10 shall have the right of appeal pursuant to section 36.380, RSMo.

11 2. The provisions of sections 660.019 to 660.021, RSMo, shall apply to this section.
12 If an employee of the division or a private contractor of the division is responsible for
13 assignments in excess of specified caseload standards established in section 660.020, RSMo,
14 and the employee purposely, knowingly, and willfully violates a stated or written policy of
15 the division and the violation directly results in serious physical injury or death, any rule
16 promulgated by the division, or any state law directly related to the child abuse and neglect
17 activities of the division, the employee's good faith efforts to follow the stated or written
18 policies of the division, the rules promulgated by the division, or the state laws directly
19 related to the child abuse and neglect activities of the division shall be a mitigating factor
20 in determining whether an employee is dismissed 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 a child-serving**
92 **agency within the comprehensive children's mental health service system established in**
93 **section 630.097, RSMo.** The department of mental health shall establish by administrative rule
94 the definition and criteria for designation as a community mental health facility and for
95 designation as an alcohol and drug abuse facility. Such mental health services shall include:

96 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,

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

111 (b) Clinic mental health services including preventive, diagnostic, therapeutic,
112 rehabilitative, and palliative interventions rendered to individuals in an individual or group
113 setting by a mental health professional in accordance with a plan of treatment appropriately
114 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
115 part of client services management;

116 (c) Rehabilitative mental health and alcohol and drug abuse services including **home and**
117 **community-based** preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions
118 rendered to individuals in an individual or group setting by a mental health or alcohol and drug
119 abuse professional in accordance with a plan of treatment appropriately established,
120 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client
121 services management. As used in this section, "mental health professional" and "alcohol and
122 drug abuse professional" shall be defined by the department of mental health pursuant to duly
123 promulgated rules. With respect to services established by this subdivision, the department of
124 social services, division of medical services, shall enter into an agreement with the department
125 of mental health. Matching funds for outpatient mental health services, clinic mental health
126 services, and rehabilitation services for mental health and alcohol and drug abuse shall be
127 certified by the department of mental health to the division of medical services. The agreement
128 shall establish a mechanism for the joint implementation of the provisions of this subdivision.
129 In addition, the agreement shall establish a mechanism by which rates for services may be jointly
130 developed;

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

139 (21) Hospice care. As used in this subsection, the term "hospice care" means a
140 coordinated program of active professional medical attention within a home, outpatient and
141 inpatient care which treats the terminally ill patient and family as a unit, employing a medically
142 directed interdisciplinary team. The program provides relief of severe pain or other physical

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

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

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

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

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

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

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

b. The patient is admitted to a hospital for a medical condition with an anticipated stay

169 of three days or less;

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

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

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

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

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

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

201 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of
202 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers
203 so that care and services are available under the state plan for medical assistance at least to the
204 extent that such care and services are available to the general population in the geographic area,

205 as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations
206 promulgated thereunder.

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

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

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

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

225 10. The department of social services, division of medical services, may enroll qualified
226 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. Through judicial review or family support team meetings, the children's division**
6 **shall determine which cases involve children in the system due exclusively to a need for**
7 **mental health services, and identify the cases where no instance of abuse, neglect, or**
8 **abandonment exists.**

9 **3. Within sixty days of a child being identified pursuant to subsection 2 of this**
10 **section, an individualized service plan shall be developed by the applicable state agencies**
11 **responsible for providing or paying for any and all appropriate and necessary services.**
12 **The individualized service plan shall specifically identify which agencies are going to pay**
13 **for, subject to appropriations, and provide such services, and such plan shall be submitted**
14 **to the court for approval. Services shall be provided in the least restrictive, most**

15 appropriate environment that meets the needs of the child including home, community-
16 based treatment, and supports. The child's family shall actively participate in designing
17 the individualized service plan for the child. The department of social services shall notify
18 the appropriate judge of the child and shall submit the individualized service plan
19 developed for approval by the judge. The child may be returned by the judge to the
20 custody of the child's family.

21 4. When the children are returned to their family's custody and become the service
22 responsibility of the department of mental health, the appropriate moneys to provide for
23 the care of each child in each particular situation shall be billed to the department of social
24 services by the department of mental health pursuant to a comprehensive financing plan
25 jointly developed by the two departments.

208.647. Any child identified as having special health care needs, defined as a
2 condition which left untreated would result in the death or serious physical injury of a
3 child, that does not have access to affordable employer-subsidized health care insurance
4 shall not be required to be without health care coverage for six months in order to be
5 eligible for services under sections 208.631 to 208.657 and shall not be subject to the
6 waiting period required under section 208.646, as long as the child meets all other
7 qualifications for eligibility.

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] **seventeen** who is living in
4 the applicant's home shall be required to submit to a criminal background check pursuant to
5 section 43.540, RSMo, and a check of the central registry for child abuse established in section
6 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this
7 section shall be satisfied through registration with the family care safety registry established in
8 sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the
9 applicant.

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

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

17 (2) Determine if the applicant or any person over the age of [eighteen] **seventeen** who
18 is living in the applicant's home has been refused licensure or has experienced licensure

19 suspension or revocation pursuant to section 210.221 or 210.496; and

20 (3) **Upon initial application, require the applicant to submit to fingerprinting and**
21 request a criminal background check of the applicant and any person over the age of [eighteen]
22 **seventeen** who is living in the applicant's home pursuant to section 43.540, RSMo, **and section**
23 **210.487.**

24 3. Except as otherwise provided in subsection 4 of this section, upon completion of the
25 background checks in subsection 2 of this section, an applicant shall be denied state or federal
26 funds for providing child care if such applicant or any person over the age of [eighteen]
27 **seventeen** who is living in the applicant's home:

28 (1) Has had a [probable cause] finding of child abuse or neglect **by probable cause**
29 **prior to the effective date of this section or by a preponderance of the evidence after the**
30 **effective date of this section** pursuant to section 210.145 **or section 210.152;**

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

33 (3) Has pled guilty or nolo contendere to or been found guilty of any felony for an
34 offense against the person as defined by chapter 565, RSMo, or any other offense against the
35 person involving the endangerment of a child as prescribed by law; of any misdemeanor or
36 felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for
37 an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of
38 fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any
39 misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or
40 of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which
41 the director has knowledge or any offenses or reports which will disqualify an applicant from
42 receiving state or federal funds.

43 4. An applicant shall be given an opportunity by the division to offer any extenuating or
44 mitigating circumstances regarding the findings, refusals or violations against such applicant or
45 any person over the age of [eighteen] **seventeen** who is living in the applicant's home listed in
46 subsection 2 of this section. Such extenuating and mitigating circumstances may be considered
47 by the division in its determination of whether to permit such applicant to receive state or federal
48 funds for providing child care in the home.

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

52 6. If an applicant is denied state or federal funds for providing child care in the home
53 based on the background check results for any person over the age of [eighteen] **seventeen** who
54 is living in the applicant's home, the applicant shall not apply for such funds until such person

55 is no longer living in the applicant's home.

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

210.109. 1. The **children's** division [of family services] shall establish a child protection
2 system for 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; **except that, mandatory reporters under section 210.115, including**
16 **employees of the children's division and juvenile officers, but not school personnel, shall**
17 **not be made anonymously. School personnel who are mandatory reporters pursuant to**
18 **section 210.115 shall only be required to disclose their classification as a mandatory**
19 **reporter;**

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

24 (5) Provide protective or preventive services to the family and child and to others in the

25 home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and
26 stabilize the family whenever possible. The juvenile court shall cooperate with the division in
27 providing such services;

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

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

32 **(8) Whenever available and appropriate, contract for the provision of children's**
33 **services through children's services providers and agencies in the community; except that**
34 **the state shall be the sole provider of child abuse and neglect hotline services, the initial**
35 **child abuse and neglect investigation, and the initial family assessment. In all court**
36 **proceedings involving children in the custody of the division, the division may be**
37 **represented in court by either division personnel or persons with whom the division**
38 **contracts with for such representation. All children's services providers and agencies shall**
39 **be subject to criminal background checks pursuant to chapter 43, RSMo, and shall submit**
40 **names of all employees to the family care safety registry.**

41

42 As used in this subsection, "report" includes any telephone call made pursuant to section
43 210.145.

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

49 5. The documentation required by subsection 4 of this section shall include an
50 independent evaluation of the child protection system completed according to accepted, objective
51 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 **prior to the effective date of this section or by a preponderance of the evidence**
9 **after the effective date of this section** or a court has substantiated through court adjudication

10 that the individual has committed child abuse or neglect or the person has pled guilty or has been
11 found guilty of a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or 565.050,
12 RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060,
13 RSMo, if the victim is a child less than eighteen years of age, or other crime pursuant to chapter
14 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is
15 twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than
16 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or
17 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes.

18 **Any persons placed on the registry prior to the effective date of this section, shall remain**
19 **on the registry for the duration of time required by section 210.152;**

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

22 (4) **"Children's services providers and agencies", any public or private entity or**
23 **community action agency with the appropriate and relevant training and expertise in**
24 **delivering services to children and their families as determined by the children's division,**
25 **and capable of providing direct services and other family services for children in the**
26 **custody of the children's division or any such entities or agencies that are receiving state**
27 **moneys for such services;**

28 (5) "Director", the director of the Missouri **children's** division [of family] **within the**
29 **department of social** services;

30 [(5)] (6) "Division", the Missouri **children's** division [of family] **within the department**
31 **of social** services;

32 (7) **"Emergency", a real and substantive risk of sexual abuse, imminent danger of**
33 **death, or serious physical harm;**

34 [(6)] (8) "Family assessment and services", an approach to be developed by the
35 **children's** division [of family services] which will provide for a prompt assessment of a child
36 who has been reported to the division as a victim of abuse or neglect by a person responsible for
37 that child's care, custody or control and of that child's family, including risk of abuse and neglect
38 and, if necessary, the provision of community-based services to reduce the risk and support the
39 family;

40 [(7)] (9) "Investigation", the collection of physical and verbal evidence to determine if
41 a child has been abused or neglected;

42 [(8)] (10) "Jail or detention center personnel", employees and volunteers working in any
43 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
44 provided to persons who are being held under custody of the law;

45 [(9)] (11) "Neglect", failure to provide, by those responsible for the care, custody, and

46 control of the child, the proper or necessary support, education as required by law, nutrition or
47 medical, surgical, or any other care necessary for the child's well-being;

48 [(10)] (12) "Probable cause", available facts when viewed in the light of surrounding
49 circumstances which would cause a reasonable person to believe a child was abused or
50 neglected;

51 [(11)] (13) **"Preponderance of the evidence", that degree of evidence that is of**
52 **greater weight or more convincing than the evidence which is offered in opposition to it or**
53 **evidence which as a whole shows the fact to be proved to be more probable than not;**

54 (14) "Report", the communication of an allegation of child abuse or neglect to the
55 division pursuant to section 210.115;

56 [(12)] (15) "Those responsible for the care, custody, and control of the child", those
57 included but not limited to the parents or guardian of a child, other members of the child's
58 household, or those exercising supervision over a child for any part of a twenty-four-hour day.
59 Those responsible for the care, custody and control shall also include any adult who, based on
60 relationship to the parents of the child, members of the child's household or the family, has
61 access to the child.

210.111. By January 1, 2005, the children's division shall identify all children in the
2 **custody of the division currently receiving foster care services and shall report to the**
3 **general assembly the type of foster care being provided, including but not limited to care**
4 **provided in a licensed foster care home, institutional setting, residential setting,**
5 **independent living setting, or kinship care setting, and the status of all such children.**
6 **Nothing in this section shall be construed as requiring the division to disclose the identity**
7 **or precise location of any child in the custody of the division.**

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 by public and private providers who will be
7 evaluated in a uniform and consistent basis;

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

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

13 2. On or before July 1, 2005, and subject to appropriations, the children's division,

14 the courts in the designated areas of the pilot project, and any other state agency deemed
15 necessary by the division and the courts shall, in consultation with the community and
16 providers of services in the pilot project areas, implement a two-year pilot project in
17 Greene County, the St. Louis County, and a rural county in this state selected by the
18 division which will provide a comprehensive and deliberate system of service delivery for
19 all children and their families when children are in the custody of the division. In
20 implementing the pilot project, direct services for children and their families currently
21 provided by the children's division in Greene County, the St. Louis County, and the
22 selected rural county, except for services related to the child abuse and neglect hotline,
23 investigations of alleged child abuse and neglect, and initial family assessments, shall be
24 contracted for by a competitive bid process and provided by children's services providers
25 and agencies currently contracting with the state to provide such services and by public
26 and private not-for-profit or limited liability corporations owned exclusively by not-for-
27 profit corporations children's services providers and agencies which have:

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

30 (2) 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 Any contracts entered into by the division shall be in accordance with all federal laws and
37 regulations, and shall not result in the loss of federal funding. Such children's services
38 providers and agencies under contract with the division shall be subject to all federal, state,
39 and local laws and regulations relating to the provision of such services.

40 3. By February 1, 2005, each county participating in the pilot project shall submit
41 a plan for the implementation of the pilot project to the general assembly, including but
42 not limited to the following:

43 (1) A timetable for meeting the county's goal for privatization cases;

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

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

46

47 The privatization pilot project planning panels established in subsection 4 of this section
48 may include criteria in the implementation plan which allows caseworkers in the pilot
49 project areas to handle up to thirty cases per caseworker.

50 **4. The plan required in subsection 3 of this section shall be developed by a**
51 **"Privatization Pilot Project Planning Panel" in each county participating in the pilot**
52 **project. Each such panel shall include the following members:**

53 **(1) To be appointed by the governor:**

54 **(a) A representative from the local children's division;**

55 **(b) A representative from private agencies;**

56 **(c) A representative from child advocacy groups;**

57 **(d) A representative from the department of mental health; and**

58 **(e) A representative from community partnership agencies; and**

59 **(2) To be appointed by the chief justice of the supreme court:**

60 **(a) A representative from private agencies;**

61 **(b) A representative from the judicial circuit in which the county is located;**

62 **(c) An attorney representing the interests of parents;**

63 **(d) A volunteer advocate or guardian ad litem; and**

64 **(e) A representative of child advocacy groups.**

65
66 **In addition, each privatization pilot project planning panel shall also include two members**
67 **of the senate, with one member appointed by the president pro tem of the senate and one**
68 **member appointed by the minority floor leader of the senate, and two members of the**
69 **house of representatives, with one member appointed by the speaker of the house of**
70 **representatives and one member appointed by the minority floor leader of the house of**
71 **representatives. All appointments to the local panels shall be made by September 1, 2004,**
72 **and each panel shall convene at least once before October 1, 2004.**

73 **5. The pilot project shall have the following criteria:**

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

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

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

86 (a) The interaction and interrelationship of a child with the child's foster parents,
87 biological or adoptive parents, siblings, and any other person who may significantly affect
88 the child's best interests;

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

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

92 (d) The needs of the child for a continuing relationship with the child's biological
93 or adoptive parents and the ability and willingness of the child's biological or adoptive
94 parents to actively perform their functions as parents with regard to the needs of the child;

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

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

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

104 6. For the pilot project areas, a case management plan consistent with all relevant
105 federal guidelines shall be developed for each child at the earliest time after the initial
106 investigation, but in no event longer than fourteen days after the initial investigation. Such
107 case management plan shall be presented to the court and be the foundation of service
108 delivery to the child and family. The case management plan shall, at a minimum, include:

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

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

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

113 (4) Necessary evaluations and reporting.

114
115 In addition to any visits and assessments required under case management, services to be
116 provided by a public or private children's services provider under the specific case
117 management plan may include family-centered services, foster and adoptive parent
118 recruitment and retention, residential care, mentoring, intensive in-home services, foster
119 care services, adoption services, relative care case services, independent living services, and
120 family reunification services. In all cases, an appropriate level of services shall be provided
121 to the child and family after permanency is achieved to assure a continued successful

122 **outcome.**

123 **7. On or before July 15, 2006, and each July fifteenth thereafter that the project is**
124 **in operation, the division, in collaboration with the courts in the designated pilot project**
125 **areas, shall submit a report to the general assembly which shall include:**

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

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

133 **(3) Any information or recommendations directly related to the provision of direct**
134 **services for children and their families that any of the contracting children's services**
135 **providers and agencies request to have included in the report.**

136 **8. The children's division may promulgate rules to implement the provisions of this**
137 **section. No rule or portion of a rule promulgated pursuant to the authority of this section**
138 **shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.**

139 **9. The provisions of this section shall expire on June 30, 2007.**

210.113. It is the intent and goal of the general assembly to have the department
2 **attain accreditation by the Council for Accreditation for Families and Children's Services**
3 **within five years of the effective date of this section.**

210.127. 1. If the location or identity of the natural parent or parents of a child in
2 **the custody of the division is unknown, the children's division shall utilize all reasonable**
3 **and effective means available to conduct a diligent search for the biological or adoptive**
4 **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 biological parent whose identity**
7 **or location is unknown, initiated as soon as the division is made aware of the existence of**
8 **such parent, with the search progress reported at each court hearing until the parent is**
9 **either identified and located or the court excuses further search.**

210.145. 1. The division shall [establish and maintain] develop protocols which give
2 **priority 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) Promoting the preservation and reunification of children and families;**

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

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

11 2. Upon receipt of a report, the division shall immediately communicate such report to
12 its appropriate local office and any relevant information as may be contained in the information
13 system **and determine if the report merits investigation, or, which, if true, would constitute**
14 **a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024,**
15 **or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030**
16 **or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes**
17 **under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the**
18 **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, 573.035, 573.037, or 573.040, RSMo, or an**
21 **attempt to commit any such crimes.** The local division staff shall determine, through the use
22 of protocols developed by the division, whether an investigation or the family assessment and
23 services approach should be used to respond to the allegation. The protocols developed by the
24 division shall give priority to ensuring the well-being and safety of the child.

25 3. **The division shall utilize structured decision-making protocol for classification**
26 **purposes of all child abuse and neglect reports. The protocols developed by the division**
27 **shall give priority to ensuring the well-being and safety of the child. All child abuse and**
28 **neglect reports shall be initiated within twenty-four hours and shall be classified based**
29 **upon the reported risk and injury to the child, considering, but not limited to, the following**
30 **factors:**

- 31 **(1) Is there serious physical abuse alleged where siblings remain in the home;**
32 **(2) Is there a child fatality due to alleged abuse or neglect and siblings remain in**
33 **the home;**
34 **(3) Is there alleged physical abuse occurring right now;**
35 **(4) Are injuries or symptoms of injuries evident that require immediate medical**
36 **care, or is the child in need of immediate psychiatric care due to alleged abuse;**
37 **(5) Were severe to inhumane measures used;**
38 **(6) Will the alleged perpetrator have access to the child in the next twenty-fours**
39 **hours or is the child afraid to go home;**
40 **(7) Did the alleged abuse occur within the last thirty days;**
41 **(8) Is the child currently in a protected environment;**
42 **(9) Is the current situation immediately dangerous;**

- 43 **(10) Are there prior nonharrassment child abuse or neglect reports;**
44 **(11) Is the allegation educational neglect only;**
45 **(12) Does the alleged perpetrator have access to the child within the next twenty-**
46 **four hours, or is the child exhibiting severe emotional trauma or physical injury due to the**
47 **alleged sexual abuse;**
48 **(13) Does the child appear seriously ill or injured or in need of immediate care; or**
49 **(14) Does the child have a chronic illness or minor injuries that require attention.**

50

51 **In all cases the division must have face-to-face contact with all other children in the alleged**
52 **victim's household within seventy-two hours.**

53 **4. Such reports shall be prioritized for the local office utilizing the following**
54 **response levels:**

55 **(1) Level 1 priority shall require division staff to have face-to-face contact with the**
56 **alleged victim or victims within three hours;**

57 **(2) Level 2 priority shall require division staff to have face-to-face contact with the**
58 **alleged victim or victims within twenty-four hours;**

59 **(3) Level 3 priority shall require division staff to have face-to-face contact with the**
60 **alleged victim or victims within seventy-two hours.**

61

62 **In all cases the division must have face-to-face contact with all other children in the alleged**
63 **victim's household within seventy-two hours.**

64 **5. The local office shall contact the appropriate law enforcement agency immediately**
65 **upon receipt of a report which division personnel determine merits an investigation, or, which,**
66 **if true, would constitute a suspected violation of any of the following: section 565.020, 565.021,**
67 **565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age,**
68 **section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or**
69 **other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and**
70 **the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a**
71 **child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060,**
72 **568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037 or [573.045] 573.040, RSMo,**
73 **or an attempt to commit any such crimes. The local office shall provide such agency with a**
74 **detailed description of the report received. In such cases the local division office shall request**
75 **the assistance of the local law enforcement agency in all aspects of the investigation of the**
76 **complaint. The appropriate law enforcement agency shall either assist the division in the**
77 **investigation or provide the division, within twenty-four hours, an explanation in writing**
78 **detailing the reasons why it is unable to assist.**

79 [4.] 6. The local office of the division shall cause an investigation or family assessment
80 and services approach to be initiated immediately or no later than within twenty-four hours of
81 receipt of the report from the division, except in cases where the sole basis for the report is
82 educational neglect. If the report indicates that educational neglect is the only complaint and
83 there is no suspicion of other neglect or abuse, the investigation shall be initiated within
84 seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious
85 physical harm or threat to life, an investigation shall include direct observation of the subject
86 child within twenty-four hours of the receipt of the report. Local law enforcement shall take all
87 necessary steps to facilitate such direct observation. If the parents of the child are not the alleged
88 abusers, a parent of the child must be notified prior to the child being interviewed by the
89 division. **If the abuse is alleged to have occurred in a school or child care facility the**
90 **division shall not meet with the child [at the child's school or child-care facility] in the same**
91 **school building or child care facility building where abuse of such child is alleged to have**
92 **occurred.** When the child is reported absent from the residence, the location and the well-being
93 of the child shall be verified.

94 [5.] 7. The director of the division shall name at least one chief investigator for each
95 local division office, who shall direct the division response on any case involving a second or
96 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
97 investigator shall include verification of direct observation of the subject child by the division
98 and shall ensure information regarding the status of an investigation is provided to the public
99 school district liaison. The public school district liaison shall develop protocol in conjunction
100 with the chief investigator to ensure information regarding an investigation is shared with
101 appropriate school personnel. The superintendent of each school district shall designate a
102 specific person or persons to act as the public school district liaison. Should the subject child
103 attend a nonpublic school the chief investigator shall notify the school principal of the
104 investigation. Upon notification of an investigation, all information received by the public
105 school district liaison or the school shall be subject to the provisions of the federal Family
106 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
107 C.F.R., Part 99.

108 [6.] 8. The investigation shall include but not be limited to the nature, extent, and cause
109 of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect;
110 the names and conditions of other children in the home, if any; the home environment and the
111 relationship of the subject child to the parents or other persons responsible for the child's care;
112 any indication of incidents of physical violence against any other household or family member;
113 and other pertinent data.

114 [7.] 9. When a report has been made by a person required to report under section

210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

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

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

12. For all family support team meetings and other team meetings involving an alleged victim of child abuse or neglect, the biological or adoptive parents, legal counsel for the biological or adoptive parents, foster parents, the guardian ad litem for the child, and the court-appointed special advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and family may also be invited at the discretion of the family. In addition, the biological or adoptive parents, the legal counsel for the biological or adoptive parents, and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such meetings. Once a person is provided notice of or attends such meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

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

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

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

(2) Provide services which are voluntary and time-limited unless it is determined by the

division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

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

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

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

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

[14.] 17. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible.

187 However[,]:

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

191 (2) **The court may on its own motion, or shall if requested by a party to the**
192 **proceeding, make an inquiry not on the record with the children's division to determine**
193 **if such a report has been made. If a report has been made, the court shall stay the custody**
194 **proceeding until the children's division completes its investigation and determines whether**
195 **the report is substantiated or unsubstantiated. If the children's division determines the**
196 **report to be unsubstantiated, the court shall continue the custody proceedings and any**
197 **information or investigative records regarding such report shall not be admissible. If the**
198 **children's division determines the report to be substantiated, the court shall request the**
199 **investigative records pursuant to section 210.150 and determine the relevance, if any, and**
200 **admissibility of the information contained in the investigative records before continuing**
201 **the custody proceeding.**

202 [15.] **18.** In any judicial proceeding involving the custody of a child where the court
203 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
204 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall
205 not be entered into the registry.

206 [16.] **19.** The **children's** division [of family services] is hereby granted the authority to
207 promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and
208 chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

209 [17.] **20.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
210 that is created under the authority delegated in this section shall become effective only if it
211 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
212 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
213 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay
214 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
215 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall
216 be invalid and void.

210.147. 1. Except as otherwise provided by law, all information provided at any
2 **meeting or administrative hearing held in relation to the removal of a child from the child's**
3 **home is confidential; except that:**

4 (1) Any parent or party may waive confidentiality for himself or herself; and

5 (2) No person shall be required to sign a confidentiality agreement before testifying
6 **or providing information at such meetings or hearings. However, any person who does not**

7 agree to maintain confidentiality of the information provided at such meetings or hearings
8 may be excluded from all or any portion of such meetings or hearings during which the
9 person is not testifying or providing information.

10 2. The division shall be responsible for developing a form to be signed at the
11 conclusion of any meeting or hearing held in relation to a child removed from the home
12 and placed in the custody of the state that reflects the core commitments made by the
13 children's division or the convenor of the meeting and the parents of the child or any other
14 party. Beginning on the effective date of this section, the form shall be used and shall, at
15 a minimum, contain the following provisions:

16 "DATE:....., 20...

17 **CORE COMMITMENTS OF THE MEETING**

18 **(1) Location of the child:**

19 ☐ Remain in Current Placement ☐ New Placement

20 Additional comments:
21
22

23 **(2) Visitation Schedule for the Child's Family:**

24 ☐ Supervised ☐ Unsupervised

25 **WHEN:**

26 **WHERE:**

27 **DURATION OF VISITS**

28 **TRANSFER OF CHILD FOR VISITS:**

29 **BY WHOM**

30 **LOCATION OF PICK UP**

31 **LOCATION OF DROP OFF**

32 Additional comments

33

34

35 **(3) Actions Required of the Parents of the Child:**

36 1

37 2

38 3

39 Additional comments

40

41

42 **(4) Additional core commitments (if any):**

43
44
45

46 **The core commitments stated above have been discussed at the meeting and are true**
47 **and accurate statements of the core commitments agreed to by the parties on this day**
48 **of, 20....**

49
50 **Parent 1 or Party 1**

51
52
53 **Parent 2 or Party 2**

54
55
56 **Division Representative/**
57 **Convenor"**

58
59 **The parents and any other party shall be provided with a copy of the signed document.**

210.150. 1. The **children's** division [of family services] shall ensure the confidentiality
2 of all reports and records made pursuant to sections 210.109 to 210.183 and maintained by the
3 division, its local offices, the central registry, and other appropriate persons, officials, and
4 institutions pursuant to sections 210.109 to 210.183. To protect the rights of the family and the
5 child named in the report as a victim, the **children's** division [of family services] shall establish
6 guidelines which will ensure that any disclosure of information concerning the abuse and neglect
7 involving that child is made only to persons or agencies that have a right to such information.
8 The division may require persons to make written requests for access to records maintained by
9 the division. The division shall only release information to persons who have a right to such
10 information. The division shall notify persons receiving information pursuant to subdivisions
11 (2), (7), (8) and (9) of subsection 2 of this section of the purpose for which the information is
12 released and of the penalties for unauthorized dissemination of information. Such information
13 shall be used only for the purpose for which the information is released.

14 2. Only the following persons shall have access to investigation records contained in the
15 central registry; **except that, persons listed in subdivisions (8), (9), (10), and (11) of this**
16 **subsection shall have access to investigative records contained in the central registry only**
17 **after a substantiated report is upheld by the child abuse and neglect review board under**
18 **section 210.152 and the alleged perpetrator has exhausted all administrative remedies or**
19 **has failed to timely file for an administrative appeal under section 210.152:**

20 (1) Appropriate federal, state or local criminal justice agency personnel, or any agent of
21 such entity, with a need for such information under the law to protect children from abuse or

22 neglect;

23 (2) A physician or a designated agent who reasonably believes that the child being
24 examined may be abused or neglected;

25 (3) Appropriate staff of the division and of its local offices, including interdisciplinary
26 teams which are formed to assist the division in investigation, evaluation and treatment of child
27 abuse and neglect cases or a multidisciplinary provider of professional treatment services for a
28 child referred to the provider;

29 (4) Any child named in the report as a victim, or a legal representative, or the parent, if
30 not the alleged perpetrator, or guardian of such person when such person is a minor, or is
31 mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to
32 persons in this category. Prior to the release of any identifying information, the division [of
33 family services] shall determine if the release of such identifying information may place a
34 person's life or safety in danger. If the division makes the determination that a person's life or
35 safety may be in danger, the identifying information shall not be released. The division shall
36 provide a method for confirming or certifying that a designee is acting on behalf of a subject;

37 (5) Any alleged perpetrator named in the report, but the names of reporters shall not be
38 furnished to persons in this category. Prior to the release of any identifying information, the
39 division [of family services] shall determine if the release of such identifying information may
40 place a person's life or safety in danger. If the division makes the determination that a person's
41 life or safety may be in danger, the identifying information shall not be released. However, the
42 investigation reports will not be released to any alleged perpetrator with pending criminal
43 charges arising out of the facts and circumstances named in the investigation records until an
44 indictment is returned or an information filed; **except that, if the alleged perpetrator files an**
45 **appeal with the administrative hearing commission under section 210.152, the investigative**
46 **reports shall be released to such alleged perpetrator regardless of any pending criminal**
47 **investigation;**

48 (6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved
49 in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or
50 neglect or child protective proceedings **or child custody proceedings**, and other federal, state
51 and local government entities, or any agent of such entity, with a need for such information in
52 order to carry out its responsibilities under the law to protect children from abuse or neglect;

53 (7) Any person engaged in a bona fide research purpose, with the permission of the
54 director; provided, however, that no information identifying the child named in the report as a
55 victim or the reporters shall be made available to the researcher, unless the identifying
56 information is essential to the research or evaluation and the child named in the report as a victim
57 or, if the child is less than eighteen years of age, through the child's parent, or guardian provides

58 written permission;

59 (8) Any child-care facility; child-placing agency; residential-care facility, including
60 group homes; juvenile courts; public or private elementary schools; public or private secondary
61 schools; or any other public or private agency exercising temporary supervision over a child or
62 providing or having care or custody of a child who may request an examination of the central
63 registry from the division for all employees and volunteers or prospective employees and
64 volunteers, who do or will provide services or care to children. Any agency or business
65 recognized by the division [of family services] or business which provides training and places
66 or recommends people for employment or for volunteers in positions where they will provide
67 services or care to children may request the division to provide an examination of the central
68 registry. Such agency or business shall provide verification of its status as a recognized agency.
69 Requests for examinations shall be made to the division director or the director's designee in
70 writing by the chief administrative officer of the above homes, centers, public and private
71 elementary schools, public and private secondary schools, agencies, or courts. The division shall
72 respond in writing to that officer. The response shall include information pertaining to the nature
73 and disposition of any report or reports of abuse or neglect revealed by the examination of the
74 central registry. This response shall not include any identifying information regarding any person
75 other than the alleged perpetrator of the abuse or neglect;

76 (9) Any parent or legal guardian who inquires about a child abuse or neglect report
77 involving a specific person or child-care facility who does or may provide services or care to a
78 child of the person requesting the information. Request for examinations shall be made to the
79 division director or the director's designee, in writing, by the parent or legal guardian of the child
80 and shall be accompanied with a signed and notarized release form from the person who does
81 or may provide care or services to the child. The notarized release form shall include the full
82 name, date of birth and Social Security number of the person who does or may provide care or
83 services to a child. The response shall include information pertaining to the nature and
84 disposition of any report or reports of abuse or neglect revealed by the examination of the central
85 registry. This response shall not include any identifying information regarding any person other
86 than the alleged perpetrator of the abuse or neglect. The response shall be given within ten
87 working days of the time it was received by the division;

88 (10) Any person who inquires about a child abuse or neglect report involving a specific
89 child-care facility, child-placing agency, residential-care facility, public and private elementary
90 schools, public and private secondary schools, juvenile court or other state agency. The
91 information available to these persons is limited to the nature and disposition of any report
92 contained in the central registry and shall not include any identifying information pertaining to
93 any person mentioned in the report;

94 (11) Any state agency acting pursuant to statutes regarding a license of any person,
95 institution, or agency which provides care for or services to children;

96 (12) Any child fatality review panel established pursuant to section 210.192 or any state
97 child fatality review panel established pursuant to section 210.195;

98 (13) **The administrative hearing commission for the purpose of reviewing the**
99 **division's decision regarding an allegation of child abuse or neglect;**

100 (14) Any person who is a tenure-track or full-time research faculty member at an
101 accredited institution of higher education engaged in scholarly research, with the permission of
102 the director. Prior to the release of any identifying information, the director shall require the
103 researcher to present a plan for maintaining the confidentiality of the identifying information.
104 The researcher shall be prohibited from releasing the identifying information of individual cases.
105

106 **Any person listed in subdivisions (8), (9), (10), and (11) of this subsection that made an**
107 **inquiry to the central registry after the initial report and before the substantiated report**
108 **was upheld by the child abuse and neglect review board under section 210.152 and the**
109 **alleged perpetrator exhausted all administrative remedies or failed to timely file for an**
110 **administrative appeal under section 210.152 shall be notified of the substantiated report**
111 **and have access to investigative records of the alleged perpetrator contained in the central**
112 **registry.**

113 3. Only the following persons shall have access to records maintained by the division
114 pursuant to section 210.152 for which the division has received a report of child abuse and
115 neglect and which the division has determined that there is insufficient evidence or in which the
116 division proceeded with the family assessment and services approach:

117 (1) Appropriate staff of the division;

118 (2) Any child named in the report as a victim, or a legal representative, or the parent or
119 guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent.
120 The names or other identifying information of reporters shall not be furnished to persons in this
121 category. Prior to the release of any identifying information, the division [of family services]
122 shall determine if the release of such identifying information may place a person's life or safety
123 in danger. If the division makes the determination that a person's life or safety may be in danger,
124 the identifying information shall not be released. The division shall provide for a method for
125 confirming or certifying that a designee is acting on behalf of a subject;

126 (3) Any alleged perpetrator named in the report, but the names of reporters shall not be
127 furnished to persons in this category. Prior to the release of any identifying information, the
128 division [of family services] shall determine if the release of such identifying information may
129 place a person's life or safety in danger. If the division makes the determination that a person's

130 life or safety may be in danger, the identifying information shall not be released. However, the
131 investigation reports will not be released to any alleged perpetrator with pending criminal
132 charges arising out of the facts and circumstances named in the investigation records until an
133 indictment is returned or an information filed;

134 (4) Any child fatality review panel established pursuant to section 210.192 or any state
135 child fatality review panel established pursuant to section 210.195;

136 (5) Appropriate criminal justice agency personnel or juvenile officer;

137 (6) Multidisciplinary agency or individual including a physician or physician's designee
138 who is providing services to the child or family, with the consent of the parent or guardian of the
139 child or legal representative of the child;

140 (7) Any person engaged in bona fide research purpose, with the permission of the
141 director; provided, however, that no information identifying the subjects of the reports or the
142 reporters shall be made available to the researcher, unless the identifying information is essential
143 to the research or evaluation and the subject, or if a child, through the child's parent or guardian,
144 provides written permission;

145 **(8) The administrative hearing commission for the purpose of reviewing the**
146 **division's decision regarding an allegation of abuse or neglect.**

147 4. Any person who knowingly violates the provisions of this section, or who permits or
148 encourages the unauthorized dissemination of information contained in the information system
149 or the central registry and in reports and records made pursuant to sections 210.109 to 210.183,
150 shall be guilty of a class A misdemeanor.

151 5. Nothing in this section shall preclude the release of findings or information about
152 cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of
153 the director of the department of social services, based upon a review of the potential harm to
154 other children within the immediate family.

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. For all other
9 investigation reports where insufficient evidence of abuse or neglect is found by the division,
10 identifying information shall be retained for two years from the date of the report. Such report
11 shall include any exculpatory evidence known by the division, including exculpatory evidence

12 obtained after the closing of the case. At the end of such two-year period, the identifying
13 information shall be removed from the records of the division and destroyed;

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

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

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

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

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

35 3. Any person named in an investigation as a perpetrator who is aggrieved by a
36 determination of abuse or neglect by the division as provided in this section may seek an
37 administrative review by the child abuse and neglect review board pursuant to the provisions of
38 section 210.153. Such request for review shall be made within [sixty days of notification of the]
39 **thirty days after the mailing or delivery of the notice of the division's final** decision under
40 this section. [In those cases where criminal charges arising out of facts of the investigation are
41 pending, the request for review shall be made within sixty days from the court's final disposition
42 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] **was** supported by evidence
45 of probable cause **prior to the effective date of this section or is supported by a**
46 **preponderance of the evidence after the effective date of this section** and is not against the
47 weight of such evidence. The child abuse and neglect review board hearing shall be closed to

48 all persons except the parties, their attorneys and those persons providing testimony on behalf
49 of the parties.

50 **5. If the alleged perpetrator is aggrieved by the decision of the child abuse and**
51 **neglect review board, the alleged perpetrator may seek administrative review by the**
52 **administrative hearing commission. Such request for review shall be made within thirty**
53 **days after the mailing or delivery of the notice of the board's decision under this section.**
54 **In any such action for administrative review, the administrative hearing commission shall**
55 **sustain the division's determination if the division's probable cause finding prior to the**
56 **effective date of this section or finding by a preponderance of evidence after the effective**
57 **date of this section that the alleged perpetrator abused or neglected a child is supported**
58 **by the evidence and is not against the weight of such evidence. The administrative hearing**
59 **commission shall provide the alleged perpetrator with an opportunity to appear and**
60 **present testimony. The parties may subpoena any witnesses, except the alleged perpetrator**
61 **shall not subpoena the alleged victim or the reporter. The provisions of chapter 536,**
62 **RSMo, and all state laws and evidentiary rules in court proceedings involving child victims**
63 **shall apply to all proceedings held by the administrative hearing commission under this**
64 **section.**

65 **6. If the alleged perpetrator or the division is aggrieved by the decision of the [child**
66 **abuse and neglect review board] administrative hearing commission, the alleged perpetrator**
67 **or the division may seek [de novo] judicial review in the circuit court in the county in which the**
68 **alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged**
69 **perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state,**
70 **proper venue shall be in Cole County. The case may be assigned to the family court division**
71 **where such a division has been established. The request for a judicial review shall be made**
72 **within [sixty days of notification of the] thirty days after the mailing or delivery of the notice**
73 **of the final decision of the [child abuse and neglect review board decision. In reviewing such**
74 **decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and**
75 **present testimony. The alleged perpetrator may subpoena any witnesses except the alleged**
76 **victim or the reporter. However, the circuit court shall have the discretion to allow the parties**
77 **to submit the case upon a stipulated record] administrative hearing commission. The**
78 **provisions of sections 536.100 to 536.140 shall apply to any judicial review sought under**
79 **this section.**

80 **[6.] 7. In any [such] action for administrative review, the child abuse and neglect review**
81 **board and the administrative hearing commission shall notify the child or the parent, guardian**
82 **or legal representative of the child that a review has been requested.**

83 **8. The children's division or the director of the department of social services may,**

84 at any time, dismiss a case and withdraw it from review by the child abuse and neglect
85 review board or the administrative hearing commission.

86 9. The administrative hearing commission shall promulgate rules governing the
87 administrative hearings on appeal from the child abuse and neglect review board. Any
88 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created
89 under the authority delegated in this section shall become effective only if it complies with
90 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
91 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
92 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to
93 delay the effective date, or to disapprove and annul a rule are subsequently held
94 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
95 after the effective date of this section shall be invalid and void.

210.153. 1. There is hereby created in the department of social services the "Child
2 Abuse and Neglect Review Board", which shall provide an independent review of child abuse
3 and neglect determinations in instances in which the alleged perpetrator is aggrieved by the
4 decision of the **children's** division [of family services]. The division may establish more than
5 one board to assure timely review of the determination.

6 2. The board shall consist of nine members, who shall be appointed by the governor with
7 the advice and consent of the senate, and shall include:

- 8 (1) A physician, nurse or other medical professional;
9 (2) A licensed child or family psychologist, counselor or social worker;
10 (3) An attorney who has acted as a guardian ad litem or other attorney who has
11 represented a subject of a child abuse and neglect report;
12 (4) A representative from law enforcement or a juvenile office.

13 3. Other members of the board may be selected from:

- 14 (1) A person from another profession or field who has an interest in child abuse or
15 neglect;
16 (2) A college or university professor or elementary or secondary teacher;
17 (3) A child advocate;
18 (4) A parent, foster parent or grandparent.

19 4. The following persons may participate in a child abuse and neglect review board
20 review:

- 21 (1) Appropriate **children's** division [of family services] staff and legal counsel for the
22 department;
23 (2) The alleged perpetrator, who may be represented pro se or be represented by legal
24 counsel. The alleged perpetrator's presence is not required for the review to be conducted. The

25 alleged perpetrator may submit a written statement for the board's consideration in lieu of
26 personal appearance; and

27 (3) Witnesses providing information on behalf of the child, the alleged perpetrator or the
28 department. Witnesses shall only be allowed to attend that portion of the review in which they
29 are presenting information.

30 5. The members of the board shall serve without compensation, but shall receive
31 reimbursement for reasonable and necessary expenses actually incurred in the performance of
32 their duties.

33 6. All records and information compiled, obtained, prepared or maintained by the child
34 abuse and neglect review board in the course of any review shall be confidential information.

35 7. The department shall promulgate rules and regulations governing the operation of the
36 child abuse and neglect review board except as otherwise provided for in this section. These
37 rules and regulations shall, at a minimum, describe the length of terms, the selection of the
38 chairperson, confidentiality, notification of parties and time frames for the completion of the
39 review.

40 8. Findings of probable cause to suspect **prior to the effective date of this section or**
41 **findings by a preponderance of the evidence after the effective date of this section of** child
42 abuse and neglect by the division which are substantiated by court adjudication shall not be heard
43 by the child abuse and neglect review board **or the administrative hearing commission. Such**
44 **findings by the division which are substantiated by the administrative hearing commission**
45 **shall not be heard by the child abuse and neglect review board.**

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 to a case, shall be informed of and attend at least two meetings**
14 **involving the child.** Employees of the division, officers of the court, and employees of any
15 agency involved shall fully inform the guardian ad litem of all aspects of the case of which they

16 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, including utilization of**
21 **the family care safety registry and access line pursuant to sections 210.900 to 210.937, to**
22 **ensure the safety and welfare of the children such persons are appointed to represent.** The
23 judge in making appointments pursuant to this section shall give preference to persons who
24 served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the
25 record for not giving such preference.

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

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

45 6. Any person appointed to perform guardian ad litem duties shall have completed a
46 training program in permanency planning **and shall advocate for timely court hearings**
47 **whenever possible to attain permanency for a child as expeditiously as possible to reduce**
48 **the effects that prolonged foster care may have on a child.** A nonattorney volunteer advocate
49 shall have access to a court appointed attorney guardian ad litem should the circumstances of the
50 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 **Children's** Division [of Family Services]
6 pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a
7 report of child 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 **Children's**
11 Division [of Family Services] to identify incidents of abuse or neglect in order to provide
12 protective or 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] **by a preponderance of the evidence**
18 **reason** to suspect the existence of child abuse or neglect in the judgment of the Division and that
19 the Division will contact the family to offer social services.

20 ["]If the Division finds [there is probable cause] **by a preponderance of the evidence**
21 **reason** to believe 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] **reason to believe 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] **with the administrative hearing commission**
33 **within thirty** days of the child abuse and neglect review board's decision. **If the administrative**
34 **hearing commission upholds the division's decision, an appeal may be filed in circuit court**
35 **within thirty days of the administrative hearing commission's decision."**

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

- 38 (1) The purpose of the contact with the family;
39 (2) The name of the person responding and his **or her** office telephone number;
40 (3) The assessment process to be followed during the division's intervention with the
41 family including the possible services available and expectations of the family.

**210.187. 1. The task force on children's justice established by the children's
2 division within the department of social services to recommend improvements in the area
3 of child abuse and neglect services and provide funding for such recommendations shall
4 provide an independent review of policies and procedures of state and local child protective
5 services agencies, and where appropriate, specific cases, and shall evaluate the extent to
6 which the agencies are effectively discharging their child protection responsibilities.**

**7 2. Consistent with the task force's function of reviewing applications for federal
8 grant moneys available to the state under the Children's Justice Act which are designed
9 to assist eligible states in implementing programs for the handling, investigation, and
10 prosecution of child abuse cases, the task force shall consider the awarding of grant
11 moneys which address the issues that arise from the independent review conducted by the
12 task force pursuant to subsection 1 of this section. As authorized by the Children's Justice
13 Act, grant moneys shall be awarded for the following categories:**

**14 (1) Improvements to the investigative, administrative, and judicial handling of cases
15 of child abuse and neglect;**

**16 (2) Experimental, model, and demonstration programs for testing innovative
17 approaches and techniques to improve the prompt and successful resolution of court
18 proceedings or enhance the effectiveness and judicial administration action in child abuse
19 and neglect cases; and**

**20 (3) Reform of state laws, rules, protocols, and procedures to provide comprehensive
21 protection for children from abuse and neglect.**

**22 3. The members of the task force shall not disclose to any person or government
23 official any identifying information concerning a specific child protection case with respect
24 to which the task force is providing information and shall not make public other
25 information unless authorized by state law.**

26 4. The task force shall be provided:

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

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

210.188. Beginning February 1, 2006, 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 substantiated or unsubstantiated;

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

9 (a) The number that did not receive or refused services during the year under a
10 state program;

11 (b) The number that did receive services during the year under a state program;
12 and

13 (c) The number that were removed from their families during the year by
14 disposition of the case;

15 (4) The number of families that received preventive services from the state or a
16 private service provider during the year;

17 (5) The number of deaths in the state during the year resulting from child abuse
18 or neglect;

19 (6) Of the number of children described in subdivision (5) of this section, the
20 number of children who were in foster care or received services from a private service
21 provider;

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

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

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

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

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

34 (12) The number of children in foster care who have been adopted.

210.201. As used in sections 210.201 to 210.257, the following terms mean:

2 (1) "Child", an individual who is under the age of seventeen;

3 (2) "Child-care facility", a house or other place conducted or maintained by any person

4 who advertises or holds himself out as providing care for more than four children during the
5 daytime, for compensation or otherwise, except those operated by a school system or in
6 connection with a business establishment which provides child care as a convenience for its
7 customers or its employees for no more than four hours per day, but a child-care facility shall not
8 include any private or religious organization elementary or secondary school, a religious
9 organization academic preschool or kindergarten for four- and five-year-old children, a home
10 school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation
11 Bible school or child care made available while the parents or guardians are attending worship
12 services or other meetings and activities conducted or sponsored by a religious organization. **If**
13 **a facility or program is exempt from licensure based on the school exception established**
14 **in this subdivision, such facility or program shall submit documentation annually to the**
15 **department to verify its licensure-exempt status; except that, under no circumstances shall**
16 **any private or religious organization elementary or secondary school, a religious**
17 **organization academic preschool or kindergarten for four- and five-year-old children, a**
18 **home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a**
19 **vacation Bible school or child care made available while the parents or guardians are**
20 **attending worship services or other meetings and activities conducted or sponsored by a**
21 **religious organization be required to submit documentation annually to the department**
22 **to verify its licensure-exempt status;**

23 (3) "Person", any person, firm, corporation, association, institution or other incorporated
24 or unincorporated organization;

25 (4) "Religious organization", a church, synagogue or mosque; an entity that has or would
26 qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c)
27 of the Internal Revenue Code; or an entity whose real estate on which the child-care facility is
28 located is exempt from taxation because it is used for religious purposes.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a
2 child-care facility for children, or to advertise or hold himself or herself out as being able to
3 perform any of the services as defined in section 210.201, without having in effect a written
4 license granted by the department of health and senior services; except that nothing in sections
5 210.203 to 210.245 shall apply to:

6 (1) Any person who is caring for four or fewer children.
7 For purposes of this subdivision, children who are related by blood, marriage or adoption to such
8 person within the third degree shall not be considered in the total number of children being cared
9 for;

10 (2) Any person who has been duly appointed by a court of competent jurisdiction the
11 guardian of the person of the child or children, or the person who has legal custody of the child

12 or children;

13 (3) Any person who receives free of charge, and not as a business, for periods not
14 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or
15 children of personal friends of such person, and who receives custody of no other unrelated child
16 or children;

17 (4) Any graded boarding school, summer camp, hospital, sanitarium or home which is
18 conducted in good faith primarily to provide education, recreation, medical treatment, or nursing
19 or convalescent care for children;

20 (5) Any child-care facility maintained or operated under the exclusive control of a
21 religious organization. When a nonreligious organization, having as its principal purpose the
22 provision of child-care services, enters into an arrangement with a religious organization for the
23 maintenance or operation of a child-care facility, the facility is not under the exclusive control
24 of the religious organization;

25 (6) Any residential facility or day program licensed by the department of mental health
26 pursuant to sections 630.705 to 630.760, RSMo, which provides care, treatment and habilitation
27 exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental
28 retardation or developmental disability, as defined in section 630.005, RSMo; and

29 (7) Any nursery school.

30 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility
31 shall be exempt from licensure if such facility receives any state or federal funds for providing
32 care for children, except for federal funds for those programs which meet the requirements for
33 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to
34 parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds
35 received by [the] **a person or facility listed in subdivisions (1) and (5) of subsection 1 of this**
36 **section.**

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 children's division:**

4 **(1) May request that a local or state law enforcement agency or juvenile officer**
5 **immediately conduct a name-based criminal history record check to include full orders of**
6 **protection and outstanding warrants of each person seventeen years of age or older**
7 **residing in the home by using the Missouri uniform law enforcement system (MULES) and**
8 **the National Crime Information Center to access the Interstate Identification Index**
9 **maintained by the Federal Bureau of Investigation; and**

10 **(2) Shall determine or, in the case of the juvenile court, shall request the division**
11 **to determine whether any person seventeen years of age or older residing in the home is**

12 listed on the child abuse and neglect registry.

13 2. If a name-based search has been conducted pursuant to subsection 1 of this
14 section, within five business days after the emergency placement of the child in the private
15 home, and if the private home has not previously been approved as a foster or adoptive
16 home, all persons seventeen years of age or older residing in the home, other than persons
17 within the second degree of consanguinity and affinity to the child, shall report to a local
18 law enforcement agency for the purpose of providing two sets of fingerprints each and
19 accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be
20 used by the highway patrol to search the criminal history repository and the second set
21 shall be forwarded to the Federal Bureau of Investigation for searching the federal
22 criminal history files. Results of the checks will be provided to the juvenile court or
23 children's division office requesting such information. Any child placed in emergency
24 placement in a private home shall be removed immediately if any person residing in the
25 home fails to provide fingerprints after being requested to do so, unless the person refusing
26 to provide fingerprints ceases to reside in the private home.

27 3. If the placement of a child is denied as a result of a name-based criminal history
28 check and the denial is contested, all persons seventeen years of age or older residing in the
29 home shall, within five business days, submit to the juvenile court or the children's division
30 two sets of fingerprints in the same manner described in subsection 2 of this section,
31 accompanying fees, and written permission authorizing the juvenile court or the children's
32 division to forward the fingerprints to the state criminal record repository for submission
33 to the Federal Bureau of Investigation. One set of fingerprints shall be used by the
34 highway patrol to search the criminal history repository and the second set shall be
35 forwarded to the Federal Bureau of Investigation for searching the federal criminal history
36 files.

37 4. Subject to appropriation, the total cost of fingerprinting required by this section
38 may be paid by the state, including reimbursement of persons incurring fingerprinting
39 costs under this section.

40 5. For the purposes of this section, "emergency placement" refers to those limited
41 instances when the juvenile court or children's division is placing a child in the home of
42 private individuals, including neighbors, friends, or relatives, as a result of a sudden
43 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 all adults 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 in the
8 same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be
9 used by the highway patrol to search the criminal history repository and the second set
10 shall be forwarded to the Federal Bureau of Investigation for searching the federal
11 criminal history files. The highway patrol shall assist the division and provide the criminal
12 fingerprint background information, upon request; and

13 (3) Determine whether any person seventeen years of age or older residing in the
14 home is listed on the child abuse and neglect registry.

15 2. Subject to appropriation, the total cost of fingerprinting required by this section
16 may be paid by the state, including reimbursement of persons incurring fingerprinting
17 costs under this section.

18 3. The division may make arrangements with other executive branch agencies to
19 obtain any investigative background information.

20 4. The division may promulgate rules that are necessary to implement the
21 provisions of this section. No rule or portion of a rule promulgated pursuant to the
22 authority of this section shall become effective unless it has been promulgated pursuant to
23 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 as frequently as appropriate
11 to address and review any actions being taken by agency personnel involved in the
12 provision of services to a child. The agencies shall document which staff members attended
13 such meetings. If any services for the child are provided through contracted providers,
14 such providers shall be included in the meetings described in this section.

210.535. The department of social services, shall:

2 (1) Submit amendments to state plans and seek available waivers from the federal
3 Department of Health and Human Services to enhance federal reimbursement and federal

4 **administrative reimbursement for foster care and adoption assistance under Title IV-E of**
5 **the Social Security Act and Title XIX of the Social Security Act; and**

6 **(2) Take the necessary steps to qualify the state for receipt of any federal block**
7 **grant moneys which are or will be available for foster care and adoption assistance.**

210.542. 1. The children's division shall provide certain standards and training
2 **that prospective foster care parents shall meet before becoming licensed.**

3 **2. The children's division shall provide performance-based criteria for the**
4 **evaluation of licensed foster parents and may establish by rule the frequency of such**
5 **evaluation.**

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 children's division [of family services] shall give
4 [preference and first consideration for] foster home placement to relatives of the child.
5 Notwithstanding any rule of the division to the contrary, grandparents who request consideration
6 shall be given 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.**

16 **4. The age of the child's relative shall not be the only factor that the children's**
17 **division takes into consideration when it makes placement decisions and recommendations**
18 **to the court about placing the child with such relative.**

19 **5. For any native American child placed in protective custody, the children's**
20 **division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.**

210.760. 1. In making placements in foster care the children's division [of family
2 **services] shall:**

3 **(1) Arrange for a preplacement visit of the child, except in emergencies;**

4 **(2) Provide full and accurate medical information and medical history to the persons**
5 **providing foster care at the time of placement;**

6 **(3) Give a minimum of five days advance notice to the persons providing foster care**
7 **before removing a child from their care;**

8 (4) Provide the persons giving foster care with a written statement of the reasons for
9 removing a child at the time of the notification required by this section; [and]

10 (5) **Notify the child's parent or legal guardian that the child has been placed in**
11 **foster care; and**

12 (6) Work with the [natural] parent **or legal guardian of the child**, through services
13 available, in an effort to return the child to his **or her** natural home, if at all possible, or to place
14 the child in a permanent adoptive setting, in accordance with the division's goals to reduce the
15 number of children in long-term foster care and reestablish and encourage the family unit.

16 **2. Except as otherwise provided in section 210.125, no child shall be removed from**
17 **school prior to the end of the official school day for that child for placement in foster care**
18 **without a court order specifying that the child shall be removed from school.**

19 **3. No employee of the division or any employee of a public or charter school within**
20 **this state shall perform a strip search, as defined in section 544.193, RSMo, of any student**
21 **of any such school without the signed permission of one of the student's parents or**
22 **guardian.**

23 (1) No strip search of any minor shall be performed outside the presence of any
24 parent or guardian not otherwise the subject of an investigation of abuse or neglect if such
25 parent or guardian requests to be present. Any qualified parent or guardian shall be
26 notified of his or her right to request to be present.

27 (2) In addition, no employee of the division or any employee of a public or charter
28 school shall direct a student to take part in, direct, or supervise a strip search of a fellow
29 student. For purposes of this section, "employee" includes all temporary and part-time
30 employees of the division or such public or charter schools.

31 (3) Any employee of the division or any employee of a public or charter school who
32 violates the provisions of this section shall be immediately suspended without pay, pending
33 an evidentiary hearing when such employee is entitled by statute to such a hearing.

210.762. 1. The children's division shall arrange for an initial team meeting within
2 **twenty-four hours following the status conference held pursuant to section 211.032, RSMo,**
3 **and additional team meetings prior to taking any action relating to the placement of a child**
4 **in its custody except as otherwise provided in this section. Where the welfare of the child**
5 **requires an immediate or emergency placement or change of placement, the division may**
6 **make a temporary placement of a child in its custody. The division shall schedule a team**
7 **meeting within seventy-two hours of the temporary placement of the child.**

8 **2. The biological or adoptive parents, the legal counsel for the biological or adoptive**
9 **parents, the foster parents, the guardian ad litem for the child, and the court-appointed**
10 **special advocate, and any designee of the parent that has written authorization shall be**

11 **notified and invited to participate in all team meetings. The team meeting may include**
12 **such other persons whose attendance at the meeting may assist the team in making**
13 **appropriate decisions in the best interests of the child. If the division finds that it is not in**
14 **the best interest of a child to be placed with relatives, the division shall make specific**
15 **findings in the division's report detailing the reasons why the best interests of the child**
16 **necessitate placement of the child with persons other than relatives.**

17 **3. The division shall be responsible for developing a form to be signed upon the**
18 **conclusion of the meeting pursuant to subsection 1 of this section confirming that all**
19 **involved parties are aware of the team's decision regarding the custody and placement of**
20 **the child. Any dissenting views must be recorded and attested to on such form.**

21 **4. The children's division shall be responsible for including such form with the case**
22 **records of the child.**

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 **prior to the effective date of this**
11 **section or findings of abuse and neglect by a preponderance of the evidence after the**
12 **effective date of this section** pursuant to sections 210.109 to 210.183 and, as of January 1, 2003,
13 financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

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

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

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

20 (6) Child-care facility license denials, revocations and suspensions pursuant to sections
21 210.201 to 210.259;

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

24 (8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement

25 system (MULES) for sexual offender registrations pursuant to section 589.400, 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 **prior to the effective**
4 **date of this section or a finding of child abuse or neglect by a preponderance of the**
5 **evidence after the effective date of this section** involving the applicant has been recorded
6 pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause
7 finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

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

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

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

14 (5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether
15 the applicant has any criminal history record for a felony or misdemeanor or any offense for
16 which the person has registered pursuant to sections 589.400 to 589.425, 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; and

20 (7) As of January 1, 2004, determine through a request to the patrol if the applicant is
21 a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform
22 law enforcement system (MULES).

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

28 3. The department shall notify such registrant in writing of the results of the
29 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
2 court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall
3 have exclusive original jurisdiction in proceedings:

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

6 (a) The parents, or other persons legally responsible for the care and support of the child

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

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

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

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

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

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

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

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

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

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

36 (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 one change of judge pursuant to Missouri**
72 **Supreme Court Rules;**

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. When an investigation by a juvenile officer pursuant to this section reveals that**
83 **the only basis for action involves an alleged violation of section 167.031, RSMo, involving**
84 **a child who alleges to be home schooled, the juvenile officer shall contact a parent or**
85 **parents of such child to verify that the child is being home schooled and not in violation of**
86 **section 167.031, RSMo, before making a report of such a violation. Any report of a**
87 **violation of section 167.031, RSMo, made by a juvenile officer regarding a child who is**
88 **being home schooled shall be made to the prosecuting attorney of the county where the**
89 **child legally resides.**

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 or**
5 **adoptive parents, the foster parents, and the grandparents of the child, the children's**
6 **division 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 a closed**
9 **conference and shall be held within three days of the child being taken into custody,**
10 **excluding Saturdays, Sundays, and legal holidays. The inability to provide notice to any**
11 **of the persons listed in this subsection after reasonable efforts have been made or the**
12 **absence of any such persons at the status conference shall not preclude the court from**
13 **conducting the status conference as scheduled. The supreme court shall establish**
14 **procedures for the status conference held pursuant to this subsection which shall include,**
15 **but not be limited 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 and documented by the division prior**
25 **to the removal or emergency removal of the child and whether the safety issue justifying**

26 **custody is documented;**

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

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

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

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

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

36 **(12) Providing for any necessary evaluations, including medical or psychological**
37 **evaluations; and**

38 **(13) Providing the parents with information and instructions on the nature and**
39 **content of the core commitment form contained in subsection 2 of section 210.147, RSMo.**

40

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

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

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

60 **4. At [the protective custody hearing] all hearings held pursuant to this section the**
61 **court may receive testimony and other evidence relevant to the necessity of detaining the child**

62 out of the custody of the parents, guardian or custodian.

63 **5. A court shall be considered in compliance with the time requirements for holding**
64 **hearings under this section if such hearings are initiated within the time specified. Failure**
65 **to complete a hearing within the time specified in this section shall not result in loss of**
66 **jurisdiction for the court; except that failure to hold and complete a status conference**
67 **within the time specified in this section shall result in loss of jurisdiction by the court.**

68 **6. If the placement of any child in the custody of the children's division will result**
69 **in the child attending a school other than the school the child was attending when taken**
70 **into custody:**

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

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

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

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

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

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

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

12 2. If the child indicates in any manner and at any stage of questioning pursuant to this
13 section that he **or she** does not wish to be questioned further, **or that the child wishes to have**
14 **his or her parent, legal guardian, custodian, or attorney present during questioning**, the
15 officer shall cease questioning.

16 **3. Notwithstanding any prohibition of hearsay evidence, all video or audio**
17 **recordings of any meetings, interviews, or interrogations conducted in relation to a child**
18 **in the custody of the state shall be presumed admissible as evidence in any court or**
19 **administrative proceeding involving the child. Only upon a showing by clear and**
20 **convincing evidence that a video or audio recording lacks sufficient indicia of reliability**

21 shall such recording be inadmissible.

22 4. The provisions of subsections 2 and 3 of this section shall apply when a child is
23 taken into custody by a juvenile officer or law enforcement official pursuant to subdivision
24 (1) of subsection 1 of section 211.031 and shall include any interactions with the child by
25 the children's division.

211.171. 1. The procedure to be followed at the hearing shall be determined by the
2 juvenile court judge and may be as formal or informal as he or she considers desirable, consistent
3 with constitutional and statutory requirements. The judge may take testimony and inquire into
4 the habits, surroundings, conditions and tendencies of the child and the family to enable the court
5 to render such order or judgment as will best promote the welfare of the child and carry out the
6 objectives of this chapter.

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

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

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

16 5. Stenographic notes or an authorized recording of the hearing shall be required if the
17 court so orders or, if requested by any party interested in the proceeding.

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

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

29 8. The court shall allow the victim of any offense to submit a written statement to the
30 court. The court shall allow the victim to appear before the court personally or by counsel for
31 the purpose of making a statement, unless the court finds that the presence of the victim would

32 not serve justice. The statement shall relate solely to the facts of the case and any personal
33 injuries or financial loss incurred by the victim. A member of the immediate family of the victim
34 may appear personally or by counsel to make a statement if the victim has died or is otherwise
35 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 **or her** own home or in custody of a relative
77 or other suitable person after the court or a public agency or institution designated by the court
78 conducts an investigation of the home, relative or person and finds such home, relative or person
79 to be 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.

211.319. 1. On or before July 1, 2005, the Missouri supreme court shall establish
2 **a pilot project in five judicial circuits in the state to open to the public juvenile court**
3 **proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and**
4 **for termination of parental rights cases pursuant to sections 211.442 to 211.487 initiated**
5 **by a juvenile officer or the division. In the pilot project circuits, the court, on its own**
6 **motion, may close, in whole or in part, the proceedings to the public to protect the welfare**
7 **and best interests of the child and for exceptional circumstances. Any party to a juvenile**
8 **court proceeding referred to in this subsection, except the state, may file a motion**
9 **requesting that the general public be excluded from the proceeding or any portion of the**
10 **proceeding. Upon the filing of such motion, the court shall hear arguments by the parties,**
11 **but no evidence, and shall make a determination whether to exclude the general public**
12 **from the proceedings or any portion of the proceedings. The court shall make a finding**
13 **on the record when a motion to close a hearing pursuant to this section is made and heard**
14 **by the court.**

15 2. Notwithstanding the provisions of subsection 1 of this section, the general public
16 shall be excluded from all juvenile court proceedings referred to in subsection 1 of this
17 section during the testimony of any child or victim and only such persons who have a direct
18 interest in the case or in the work of the court will be admitted to the proceedings.

19 3. For juvenile court proceedings described in subsection 1 of this section, pleadings
20 and orders of the juvenile court other than confidential files and those specifically ordered
21 closed by the juvenile court judge shall be open to the general public. For purposes of this
22 section, "confidential file" means all other records and reports considered closed or
23 confidential by law, including but not limited to medical reports, psychological or
24 psychiatric evaluations, investigation reports of the children's division, social histories,
25 home studies, and police reports and law enforcement records. Only persons who are
26 found by the court to have a legitimate interest shall be allowed access to confidential or
27 closed files. In determining whether a person has a legitimate interest, the court shall
28 consider the nature of the proceedings, the welfare and safety of the public, and the interest
29 of the victim.

30 **4. For records made available to the public pursuant to this section:**

31 **(1) The identity of the victim shall not be disclosed and all references in such**
32 **records to the identity of the victim shall be redacted prior to disclosure to the public; and**

33 **(2) All information that may identify or lead to the disclosure of the identity of a**
34 **reporter of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400,**
35 **RSMo, shall not be disclosed to the public.**

36 **5. The provisions of this section shall apply to juvenile court proceedings specified**
37 **in this section which are initiated on or after the effective date of this section.**

 302.272. 1. No person shall operate any school bus owned by or under contract with a
2 public school or the state board of education unless such driver has qualified for a school bus
3 permit under this section and complied with the pertinent rules and regulations of the department
4 of revenue. A school bus permit shall be issued to any applicant who meets the following
5 qualifications:

6 (1) The applicant has a valid state license issued under this chapter or has a license valid
7 in any other state;

8 (2) The applicant is at least twenty-one years of age;

9 (3) The applicant has passed a medical examination, including vision and hearing tests,
10 as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the
11 applicant shall pass the medical examination annually to maintain or renew the permit; and

12 (4) The applicant has successfully passed an examination for the operation of a school
13 bus as prescribed by the director of revenue. The examination shall include, but need not be
14 limited to, a written skills examination of applicable laws, rules and procedures, and a driving
15 test in the type of vehicle to be operated. The test shall be completed in the appropriate class of
16 vehicle to be driven. For purposes of this section classes of school buses shall comply with the
17 Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

18 2. Except as otherwise provided in this section, a school bus permit shall be renewed
19 every three years and shall require the applicant to provide a medical examination as specified
20 in subdivision (3) of subsection 1 of this section and to successfully pass a written skills
21 examination as prescribed by the director of revenue in consultation with the department of
22 elementary and secondary education. If the applicant is at least seventy years of age, the school
23 bus permit shall be renewed annually, and the applicant shall successfully pass the examination
24 prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed
25 permit. The director may waive the written skills examination on renewal of a school bus permit
26 upon verification of the applicant's successful completion within the preceding twelve months
27 of a training program which has been approved by the director in consultation with the
28 department of elementary and secondary education and which is at least eight hours in duration

29 with special instruction in school bus driving.

30 3. The fee for a new or renewed school bus permit shall be three dollars.

31 4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this
32 section, the director of revenue shall issue a temporary school bus permit to the applicant until
33 such time as a permanent school bus permit shall be issued following the record clearance as
34 provided in subsection 6 of this section.

35 5. The director of revenue, to the best of the director's knowledge, shall not issue or
36 renew a school bus permit to any applicant:

37 (1) Whose driving record shows that such applicant's privilege to operate a motor vehicle
38 has been suspended, revoked or disqualified or whose driving record shows a history of moving
39 vehicle violations;

40 (2) Who has pled guilty to or been found guilty of any felony or misdemeanor for
41 violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense
42 against the person as defined by chapter 565, RSMo, or any other offense against the person
43 involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for
44 a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution
45 as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the
46 family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense
47 as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related
48 offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal
49 or other court of similar jurisdiction of which the director has knowledge;

50 (3) Who has pled guilty to or been found guilty of any felony involving robbery, arson,
51 burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any
52 federal, state, municipal or other court of similar jurisdiction within the preceding ten years of
53 which the director has knowledge.

54 6. The [department of social services or the] Missouri highway patrol[, whichever has
55 access to applicable records,] shall provide a record of clearance or denial of clearance for any
56 applicant for a school bus permit for the [convictions] **offenses** specified in subdivisions (2) and
57 (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of
58 clearance or denial of clearance for any such applicant is authorized to obtain from the Federal
59 Bureau of Investigation any information which might aid the Missouri highway patrol in
60 providing such record of clearance or denial of clearance. The [department of social services or
61 the] Missouri highway patrol shall provide the record of clearance or denial of clearance within
62 thirty days of the date requested, relying on information available at that time, except that the
63 [department of social services or the] Missouri highway patrol shall provide any information
64 subsequently discovered to the department of revenue.

65 **7. Beginning January 1, 2005, the director shall request that the department of**
66 **social services determine whether the applicant is listed on the child abuse and neglect**
67 **registry and shall require the applicant to submit two sets of fingerprints. One set of**
68 **fingerprints shall be used by the highway patrol in order to search the criminal history**
69 **repository and the second set shall be forwarded to the Federal Bureau of Investigation for**
70 **searching the federal criminal history files.**

71 **8. The applicant shall pay the fee for the state criminal history information**
72 **pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal**
73 **Bureau of Investigation for the federal criminal history record when he or she applies for**
74 **the school bus permit pursuant to this section. The director shall distribute the fees**
75 **collected for the state and federal criminal histories to the highway patrol.**

76 **9. If, as a result of the criminal history background check required by this section,**
77 **it is determined that an applicant has been charged with, pled guilty or nolo contendere**
78 **to, or been found guilty of a child abuse offense or sexual offense under the laws of this**
79 **state, any other state, the United States, or any other country, regardless of imposition of**
80 **sentence, the director of revenue shall not issue or renew a school bus permit to such**
81 **applicant. If, as a result of the criminal history background check required by this section,**
82 **it is determined that an applicant has been charged with, pled guilty or nolo contendere**
83 **to, or been found guilty of any other crime under the laws of this state, any other state, the**
84 **United States, or any other country, regardless of imposition of sentence, such information**
85 **shall be reported to any school or school district requesting such information from the**
86 **department regarding any bus driver applying for a position with or employed by the**
87 **school or school district.**

88 **10. The director may adopt any rules and regulations necessary to carry out the**
89 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
90 **536.010, RSMo, that is created under the authority delegated in this section shall become**
91 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
92 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
93 **nonseverable and if any of the powers vested with the general assembly pursuant to**
94 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
95 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
96 **rule proposed or adopted after the effective date of this section, shall be invalid and void.**

402.199. 1. The general assembly hereby finds and declares the following:

2 (1) It is an essential function of state government to provide basic support for persons
3 with a mental or physical impairment that substantially limits one or more major life activities,
4 whether the impairment is congenital or acquired by accident, injury or disease;

5 (2) The cost of providing basic support for persons with a mental or physical impairment
6 is difficult for many to afford and they are forced to rely upon the government to provide such
7 support;

8 (3) Families and friends of persons with a mental or physical impairment desire to
9 supplement, but not replace, the basic support provided by state government and other
10 governmental programs;

11 (4) The cost of medical, social or other supplemental services is often provided by
12 families and friends of persons with mental or physical impairments, for the lifetime of such
13 persons;

14 (5) It is in the best interest of the people of this state to encourage, enhance and foster
15 the ability of families and friends of Missouri residents **and residents of adjacent states** with
16 mental or physical impairments to supplement, but not to replace, the basic support provided by
17 state government and other governmental programs and to provide for medical, social or other
18 supplemental services for such persons;

19 (6) Permitting and assisting families and friends of Missouri residents **and residents of**
20 **adjacent states** with mental or physical impairments to supplement, but not to replace, the basic
21 support provided by state government and other governmental programs and to provide medical,
22 social or other supplemental services for such persons as necessary and desirable for the public
23 health, safety and welfare of this state.

24 2. In light of the findings and declarations described in subsection 1 of this section, the
25 general assembly declares the purpose of the Missouri family trust to be the encouragement,
26 enhancement and fostering of the provision of medical, social or other supplemental services for
27 persons with a mental or physical impairment by family and friends of such persons.

402.200. As used in sections 402.199 to 402.220, the following terms mean:

2 (1) "Board of trustees", the Missouri family trust board of trustees;

3 (2) "Charitable trust", the trust established to provide benefits for individuals, as set forth
4 in section 402.215;

5 (3) "Department", the department of mental health;

6 (4) "Disability", a mental or physical impairment that substantially limits one or more
7 major life activities, whether the impairment is congenital or acquired by accident, injury or
8 disease, and where the impairment is verified by medical findings;

9 (5) "Life beneficiary" **or "beneficiary"**, a designated beneficiary of the Missouri family
10 trust;

11 (6) "Net income", the earnings received on investments less administrative expenses and
12 fees;

13 (7) "Principal balance", the fair market value of all contributions made to a particular

14 account, less distributions, determined as of the end of the calendar month immediately
15 preceding the occurrence giving rise to any determination of principal balance;

16 (8) "Requesting party", the party desiring arbitration;

17 (9) "Responding party", the other party in arbitration of a dispute regarding benefits to
18 be provided by the trust;

19 (10) "Successor trust", the trust established upon distribution by the board of trustees
20 pursuant to notice of withdrawal or termination and administered as set forth in section 402.215;

21 (11) "Trust", the Missouri family trust established pursuant to sections 402.200 to
22 402.220;

23 (12) "Trustee", a member of the Missouri family trust board of trustees.

402.205. 1. The families, friends and guardians of persons who have a disability or are
2 eligible for services provided by the department of mental health, or both, may participate in a
3 trust which may supplement the care, support, and treatment of such persons pursuant to the
4 provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit
5 of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce,
6 impair or diminish the benefits to which such person is otherwise entitled by law; and the
7 administration of the trust shall not be taken into consideration in appropriations for the
8 department of mental health to render services required by law.

9 2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall
10 disregard the trust as a resource when determining eligibility **of Missouri residents** for
11 assistance under chapter 208, RSMo.

12 3. The assets of the board of trustees and assets held in trust pursuant to the provisions
13 of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue
14 for any purposes of the state constitution or statutes. The property of the board of trustees and
15 its income and operations shall be exempt from all taxation by the state or any of its political
16 subdivisions.

402.215. 1. The board of trustees is authorized and directed to establish and administer
2 the Missouri family trust **and to advise, consult with, and render services to departments and**
3 **agencies of the state of Missouri and to other nonprofit organizations which qualify as**
4 **organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of**
5 **1986, as amended, and which provide services to Missouri residents with a disability.** The
6 board shall be authorized to execute all documents necessary to establish and administer the trust
7 including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo,
8 and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal
9 Revenue Code **of 1986, as amended.**

10 2. The trust documents shall include and be limited by the following provisions:

11 (1) The Missouri family trust shall be authorized to accept contributions from any source
12 including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo,
13 and other fiduciaries, [other than directly] **and, subject to the provisions of subdivision (11)**
14 **of this subsection**, from the life beneficiaries and their respective spouses, to be held,
15 administered, managed, invested and distributed in order to facilitate the coordination and
16 integration of private financing for individuals who have a disability or are eligible for services
17 provided by the Missouri department of mental health, or both, while maintaining the eligibility
18 of such individuals for government entitlement funding. All contributions, and the earnings
19 thereon, shall be administered as one trust fund; however, separate accounts shall be established
20 for each designated beneficiary. The income earned, after deducting administrative expenses,
21 shall be credited to the accounts of the respective life beneficiaries in proportion to the principal
22 balance in the account for each such life beneficiary, to the total principal balances in the
23 accounts for all life beneficiaries.

24 (2) Every donor may designate a specific person as the life beneficiary of the
25 contribution made by such donor. In addition, each donor may name a cotrustee, including the
26 donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on
27 behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be
28 eligible to be a cotrustee or a successor cotrustee; provided, however, that court approval of the
29 specific person designated as life beneficiary and as cotrustee or successor trustee shall be
30 required in connection with any trust created pursuant to section 473.657, RSMo, or section
31 475.093, RSMo.

32 (3) The [trust] **cotrustee**, with the consent of the [cotrustee] **trust**, shall **from time to**
33 **time, but not less frequently than** annually [agree on] **determine** the amount of income or
34 principal or income and principal to be used to provide noncash benefits and the nature and type
35 of benefits to be provided for the life beneficiary. Any net income which is not used shall be
36 added to principal annually. [In the event that the trust and the donor, serving as the cotrustee,
37 shall be unable to agree either on the amount of income or principal or income and principal to
38 be used for or the benefits to be provided, then none of the income or principal shall be used.]
39 In the event that the trust and the cotrustee[, other than the donor,] shall be unable to agree either
40 on the amount of income or principal or income and principal to be used or the benefits to be
41 provided, then either the trust or the cotrustee shall have the right to request that the matter be
42 resolved by arbitration **which shall be conducted in accordance with the Commercial**
43 **Arbitration Rules of the American Arbitration Association**. The requesting party shall send
44 a written request for arbitration to the responding party and shall in such request set forth the
45 name, address and telephone number of such requesting party's arbitrator. The responding party
46 shall, within ten days after receipt of the request for arbitration, set forth in writing to the

47 requesting party the name, address and telephone number of the responding party's arbitrator.
48 Copies of the request for arbitration and response shall be sent to the director of the department.
49 If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days
50 after the responding party shall have identified such party's arbitrator, then the director of the
51 department shall designate the third arbitrator by written notice to the requesting and responding
52 parties' arbitrators. The three arbitrators shall meet, **conduct a hearing**, and render a decision
53 within thirty days after the appointment of the third arbitrator. A decision of a majority of the
54 arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the
55 fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall
56 be borne equally by the parties. **Judgment on the arbitrators' award may be entered in any**
57 **court of competent jurisdiction.**

58 (4) Any donor, during his or her lifetime, except for a trust created pursuant to section
59 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided,
60 however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at
61 the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have
62 received any benefits provided by use of trust income or principal, then an amount equal to one
63 hundred percent of the principal balance shall be returned to the donor. Any undistributed net
64 income shall be distributed to the charitable trust. In the event that at the time the donor shall
65 have revoked his or her gift to the trust the life beneficiary shall have received any benefits
66 provided by the use of trust income or principal, then an amount equal to ninety percent of the
67 principal balance shall be returned to the donor. The balance of the principal balance together
68 with all undistributed net income, shall be distributed to the charitable trust.

69 (5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section
70 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's
71 account, shall have the right, for good and sufficient reason upon written notice to the trust and
72 the department stating such reason, to withdraw all or a portion of the principal balance. In such
73 event, the applicable portion, as set forth [below] **in subdivision (7) of this subsection**, of the
74 principal balance shall then be distributed to the successor trust and the balance of the principal
75 balance together with any undistributed net income, shall be distributed to the charitable trust.

76 (6) In the event that a life beneficiary for whose benefit a contribution or contributions
77 shall have been made to the family trust, [except a cotrustee of a trust created pursuant to section
78 473.657, RSMo, or section 475.093, RSMo,] shall [move from the state of Missouri or
79 otherwise] cease to be eligible for services provided by the department of mental health and
80 neither the donor nor the then acting cotrustee, **except a cotrustee of a trust created pursuant**
81 **to section 473.657, RSMo, or section 475.093, RSMo**, shall revoke or withdraw [all] **the**
82 **applicable portion, as set for in subdivision (7) of this subsection**, of the principal balance,

83 then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the
84 trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth
85 [herein] **in subdivision (7) of this subsection**, of the principal balance, to the trustee of the
86 successor trust to be held, administered and distributed by such trustee in accordance with the
87 provisions of the successor trust described in subdivision [(10)] **(12)** of this subsection.

88 (7) If at the time of withdrawal or termination as provided in subdivision (6) of this
89 subsection of a life beneficiary's account from the trust either the life beneficiary shall not have
90 received any benefits provided by the use of the trust income or principal or the life beneficiary
91 shall have received benefits provided by the use of trust income or principal for a period of not
92 more than five years from the date a contribution shall have first been made to the trust for such
93 life beneficiary, then an amount equal to ninety percent of the principal balance shall be
94 distributed to the successor trust, and the balance of the principal balance together with all
95 undistributed net income, shall be distributed to the charitable trust; provided, however, if the
96 life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above
97 shall have received any benefits provided by the use of trust income or principal for a period of
98 more than five years from the date a contribution shall have first been made to the trust for such
99 life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be
100 distributed to the successor trust, and the balance of the principal balance together with all
101 undistributed net income, shall be distributed to the charitable trust.

102 (8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary
103 dies before receiving any benefits provided by the use of trust income or principal, then an
104 amount equal to one hundred percent of the principal balance shall be distributed to such person
105 or persons as the donor shall have designated. Any undistributed net income shall be distributed
106 to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have
107 been receiving benefits provided by the use of trust income or principal or income and principal,
108 then, in such event, an amount equal to seventy-five percent of the principal balance shall be
109 distributed to such person or persons as the donor designated, and the balance of the principal
110 balance, together with all undistributed net income, shall be distributed to the charitable trust.

111 (9) In the event the trust is created as a result of a distribution from a personal
112 representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary
113 dies before receiving any benefits provided by the use of trust income or principal, an amount
114 equal to one hundred percent of the principal balance shall be distributed to such person or
115 persons who are the life beneficiary's heirs at law. [The balance, if any, of the principal balance,
116 together with all] **Any** undistributed income shall be distributed to the charitable trust. If at the
117 time of death of the life beneficiary the life beneficiary shall have been receiving benefits
118 provided by the use of trust income or principal or income and principal, then, an amount equal

119 to seventy-five percent of the principal balance shall be distributed to such person or persons
120 who are the life beneficiary's heirs at law. The balance of the principal balance, together with
121 all undistributed income shall be distributed to the charitable trust.

122 (10) In the event the trust is created as a result of the recovery of damages by reason of
123 a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any
124 benefits provided by the use of trust income or principal, the state of Missouri shall receive all
125 amounts remaining in the life beneficiary's account up to an amount equal to the total medical
126 assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United
127 States Code, and then to the extent there is any amount remaining in the life beneficiary's
128 account, an amount equal to one hundred percent of the principal balance shall be distributed to
129 such person or persons who are the life beneficiary's heirs at law. **If there are no heirs**, the
130 balance, if any, of the principal balance, together with all undistributed income shall be
131 distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary
132 should have been receiving benefits provided by the use of trust income or principal or income
133 and principal then the state of Missouri shall receive all amounts remaining in the life
134 beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such
135 life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent
136 there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five
137 percent of the principal balance shall be distributed to such person or persons who are the life
138 beneficiary's heirs at law. **If there are no heirs**, the balance of the principal balance, together
139 with all undistributed income, shall be distributed to the charitable trust.

140 (11) **In the event an account is established with the assets of the beneficiary by the**
141 **beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all**
142 **in accordance with Title 42 of the United States Code Section 1396p(d)(4)(C), then upon**
143 **the death of the life beneficiary the state of Missouri shall receive all amounts remaining**
144 **in the life beneficiary's account up to an amount equal to the total medical assistance paid**
145 **on behalf of such life beneficiary under a state plan under Title 42 of the United States**
146 **Code, and then to the extent there is any amount remaining in the life beneficiary's**
147 **account, an amount equal to seventy-five percent of the principal balance shall be**
148 **distributed to such person or persons who are the life beneficiary's heirs at law. If there**
149 **are no heirs, the balance of the principal balance, together with all undistributed income,**
150 **shall be distributed to the charitable trust.**

151 (12) Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to
152 the contrary, the donor may voluntarily agree to a smaller percentage of the principal
153 balance in any account established by such donor than is provided in this subsection to be
154 returned to the donor or distributed to the successor trust, as the case may be; and a

155 **corresponding larger percentage of the principal balance in such account to be distributed**
156 **either to the charitable trust or to a designated restricted account within the charitable**
157 **trust.**

158 **(13)** Upon receipt of a notice of withdrawal from a designated cotrustee, other than the
159 original donor, and a determination by the board of trustees that the reason for such withdrawal
160 is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the
161 board of trustees shall distribute and pay over to the designated trustee of the successor trust the
162 applicable portion of the principal balance **as set forth in subdivision (7) of this subsection;**
163 provided, however, that court approval of distribution to a successor trustee shall be required in
164 connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.
165 The designated trustee of the successor trust shall hold, administer and distribute the principal
166 and income of the successor trust, in the discretion of such trustee, for the maintenance, support,
167 health, education and general well-being of the beneficiary, recognizing that it is the purpose of
168 the successor trust to supplement, not replace, any government benefits for the beneficiary's basic
169 support to which such beneficiary may be entitled and to increase the quality of such
170 beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be
171 provided by public assistance or entitlements or other available sources. Permissible
172 expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic
173 work or treatment than is otherwise available from public assistance, private rehabilitative
174 training, supplementary education aid, entertainment, periodic vacations and outings,
175 expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to
176 purchase personal property and services which will make life more comfortable and enjoyable
177 for the beneficiary but which will not defeat his or her eligibility for public assistance.
178 Expenditures may include payment of the funeral and burial costs of the beneficiary. The
179 designated trustee, in his or her discretion, may make payments from time to time for a person
180 to accompany the beneficiary on vacations and outings and for the transportation of the
181 beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any
182 undistributed income shall be added to the principal from time to time. Expenditures shall not
183 be made for the primary support or maintenance of the beneficiary, including basic food, shelter
184 and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits
185 or assistance to which the beneficiary is then entitled. After the death and burial of the
186 beneficiary, the remaining balance of the successor trust shall be distributed to such person or
187 persons as the donor shall have designated.

188 **[(12)] (14)** The charitable trust shall be administered as part of the family trust, but as
189 a separate account. The income attributable to the charitable trust shall be used to provide
190 benefits for individuals who have a disability or who are eligible for services provided by or

191 through the department and who either have no immediate family or whose immediate family,
192 in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust
193 sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility
194 for government entitlement funding. As used in this section, the term "immediate family"
195 includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust
196 shall be recommended to the trustees by the department and others from time to time. The
197 trustees shall annually [agree on] **determine** the amount of charitable trust income to be used to
198 provide benefits and the nature and type of benefits to be provided for each identified beneficiary
199 of the charitable trust. Any income not used shall be added to principal annually.

200 **(15) Any person, with the consent of the board of trustees, may establish a**
201 **restricted account within the charitable trust and shall be permitted to determine, with the**
202 **consent of the board of trustees, the beneficiaries of such restricted account provided such**
203 **beneficiaries qualify as participants of the trust as set forth in subsection 1 of section**
204 **402.205.**

402.217. 1. No beneficiary shall have any vested or property rights or interests in the
2 family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or
3 otherwise encumber any interest in the income or principal of the family trust, nor shall such
4 income or the principal or any interest of any beneficiary thereunder be liable for any debt
5 incurred by such beneficiary, nor shall the principal or income of the family trust be subject to
6 seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

7 2. Except for the right of a donor to revoke any gift made to the trust, pursuant to
8 subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other
9 than the original donor, to withdraw all or a portion of the [original contribution] **principal**
10 **balance**, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor
11 any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber,
12 for consideration or otherwise, any interest in the income or principal of the family trust, nor
13 shall such income or the principal or any interest of any beneficiary thereunder be liable for any
14 debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family
15 trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or
16 proceeding in law or in equity.

452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

2 (1) "Custody", means joint legal custody, sole legal custody, joint physical custody or
3 sole physical custody or any combination thereof;

4 (2) "Joint legal custody" means that the parents share the decision-making rights,
5 responsibilities, and authority relating to the health, education and welfare of the child, and,
6 unless allocated, apportioned, or decreed, the parents shall confer with one another in the

7 exercise of decision-making rights, responsibilities, and authority;

8 (3) "Joint physical custody" means an order awarding each of the parents significant, but
9 not necessarily equal, periods of time during which a child resides with or is under the care and
10 supervision of each of the parents. Joint physical custody shall be shared by the parents in such
11 a way as to assure the child of frequent, continuing and meaningful contact with both parents;

12 (4) "Third-party custody" means a third party designated as a legal and physical
13 custodian pursuant to subdivision (5) of subsection 5 of this section.

14 2. The court shall determine custody in accordance with the best interests of the child.
15 The court shall consider all relevant factors including:

16 (1) The wishes of the child's parents as to custody and the proposed parenting plan
17 submitted by both parties;

18 (2) The needs of the child for a frequent, continuing and meaningful relationship with
19 both parents and the ability and willingness of parents to actively perform their functions as
20 mother and father for the needs of the child;

21 (3) The interaction and interrelationship of the child with parents, siblings, and any other
22 person who may significantly affect the child's best interests;

23 (4) Which parent is more likely to allow the child frequent, continuing and meaningful
24 contact with the other parent;

25 (5) The child's adjustment to the child's home, school, and community;

26 (6) The mental and physical health of all individuals involved, including any history of
27 abuse of any individuals involved. If the court finds that a pattern of domestic violence has
28 occurred, and, if the court also finds that awarding custody to the abusive parent is in the best
29 interest of the child, then the court shall enter written findings of fact and conclusions of law.
30 Custody and visitation rights shall be ordered in a manner that best protects the child **and any**
31 **other child or children for whom the parent has custodial or visitation rights**, and the parent
32 or other family or household member who is the victim of domestic violence from any further
33 harm;

34 (7) The intention of either parent to relocate the principal residence of the child; and

35 (8) The wishes of a child as to the child's custodian.
36

37 The fact that a parent sends his or her child or children to a home school, as defined in section
38 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such
39 child or children.

40 3. The court shall not award custody **or unsupervised visitation** of a child to a parent
41 if such parent **or a person residing with such parent** has been found guilty of, or pled guilty
42 to, a felony violation of chapter 566, RSMo, when [the] **such child or any other child** was the

43 victim, or a violation of chapter 568, RSMo, except for section 568.040, RSMo, when [the] **such**
44 **child or any other child** was the victim.

45 4. The general assembly finds and declares that it is the public policy of this state that
46 frequent, continuing and meaningful contact with both parents after the parents have separated
47 or dissolved their marriage is in the best interest of the child, except for cases where the court
48 specifically finds that such contact is not in the best interest of the child, and that it is the public
49 policy of this state to encourage parents to participate in decisions affecting the health, education
50 and welfare of their children, and to resolve disputes involving their children amicably through
51 alternative dispute resolution. In order to effectuate these policies, the court shall determine the
52 custody arrangement which will best assure both parents participate in such decisions and have
53 frequent, continuing and meaningful contact with their children so long as it is in the best
54 interests of the child.

55 5. Prior to awarding the appropriate custody arrangement in the best interest of the child,
56 the court shall consider each of the following as follows:

57 (1) Joint physical and joint legal custody to both parents, which shall not be denied
58 solely for the reason that one parent opposes a joint physical and joint legal custody award. The
59 residence of one of the parents shall be designated as the address of the child for mailing and
60 educational purposes;

61 (2) Joint physical custody with one party granted sole legal custody. The residence of
62 one of the parents shall be designated as the address of the child for mailing and educational
63 purposes;

64 (3) Joint legal custody with one party granted sole physical custody;

65 (4) Sole custody to either parent; or

66 (5) Third-party custody or visitation:

67 (a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian,
68 or the welfare of the child requires, and it is in the best interests of the child, then custody,
69 temporary custody or visitation may be awarded to any other person or persons deemed by the
70 court to be suitable and able to provide an adequate and stable environment for the child. Before
71 the court awards custody, temporary custody or visitation to a third person under this
72 subdivision, the court shall make that person a party to the action;

73 (b) Under the provisions of this subsection, any person may petition the court to
74 intervene as a party in interest at any time as provided by supreme court rule.

75 6. If the parties have not agreed to a custodial arrangement, or the court determines such
76 arrangement is not in the best interest of the child, the court shall include a written finding in the
77 judgment or order based on the public policy in subsection 4 of this section and each of the
78 factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific

79 relevant factors that made a particular arrangement in the best interest of the child. If a proposed
80 custodial arrangement is rejected by the court, the court shall include a written finding in the
81 judgment or order detailing the specific relevant factors resulting in the rejection of such
82 arrangement.

83 7. Upon a finding by the court that either parent has refused to exchange information
84 with the other parent, which shall include but not be limited to information concerning the
85 health, education and welfare of the child, the court shall order the parent to comply immediately
86 and to pay the prevailing party a sum equal to the prevailing party's cost associated with
87 obtaining the requested information, which shall include but not be limited to reasonable
88 attorney's fees and court costs.

89 8. As between the parents of a child, no preference may be given to either parent in the
90 awarding of custody because of that parent's age, sex, or financial status, nor because of the age
91 or sex of the child.

92 9. Any judgment providing for custody shall include a specific written parenting plan
93 setting forth the terms of such parenting plan arrangements specified in subsection 7 of section
94 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310
95 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan
96 approved and ordered by the court shall be in the court's discretion and shall be in the best
97 interest of the child.

98 10. Unless a parent has been denied custody rights pursuant to this section or visitation
99 rights under section 452.400, both parents shall have access to records and information
100 pertaining to a minor child, including, but not limited to, medical, dental, and school records.
101 If the parent without custody has been granted restricted or supervised visitation because the
102 court has found that the parent with custody or [the] **any** child has been the victim of domestic
103 violence, as defined in section 455.200, RSMo, by the parent without custody, the court may
104 order that the reports and records made available pursuant to this subsection not include the
105 address of the parent with custody or the child. Unless a parent has been denied custody rights
106 pursuant to this section or visitation rights under section 452.400, any judgment of dissolution
107 or other applicable court order shall specifically allow both parents access to such records and
108 reports.

109 11. Except as otherwise precluded by state or federal law, if any individual, professional,
110 public or private institution or organization denies access or fails to provide or disclose any and
111 all records and information, including, but not limited to, past and present dental, medical and
112 school records pertaining to a minor child, to either parent upon the written request of such
113 parent, the court shall, upon its finding that the individual, professional, public or private
114 institution or organization denied such request without good cause, order that party to comply

115 immediately with such request and to pay to the prevailing party all costs incurred, including, but
116 not limited to, attorney's fees and court costs associated with obtaining the requested information.

117 12. An award of joint custody does not preclude an award of child support pursuant to
118 section 452.340 and applicable supreme court rules. The court shall consider the factors
119 contained in section 452.340 and applicable supreme court rules in determining an amount
120 reasonable or necessary for the support of the child.

121 13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and
122 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the
123 custody or visitation arrangement ordered by the court best protects the child and the parent or
124 other family or household member who is the victim of domestic violence or abuse, as defined
125 in sections 455.010 and 455.501, RSMo, **and any other children for whom such parent has**
126 **contact** from any further harm.

452.400. 1. A parent not granted custody of the child is entitled to reasonable visitation
2 rights unless the court finds, after a hearing, that visitation would endanger the child's physical
3 health or impair his **or her** emotional development. The court shall enter an order specifically
4 detailing the visitation rights of the parent without physical custody rights **to the child and any**
5 **other children for whom such parent has contact**. In determining the granting of visitation
6 rights, the court shall consider evidence of domestic violence. If the court finds that domestic
7 violence has occurred, the court may find that granting visitation to the abusive party is in the
8 best interests of the child. The court shall not grant visitation to the parent not granted custody
9 if such parent **or any person residing with such parent** has been found guilty of or pled guilty
10 to a felony violation of chapter 566, RSMo, when [the] **a** child was the victim, or a violation of
11 chapter 568, RSMo, except for section 568.040, RSMo, when [the] **a** child was the victim or an
12 offense committed in another state, when [the] **a** child is the victim, that would be a felony
13 violation of chapter 566, RSMo, or chapter 568, RSMo, except for section 568.040, RSMo, if
14 committed in Missouri. The court shall consider the parent's history of inflicting, or tendency
15 to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or
16 assault on other persons and shall grant visitation in a manner that best protects the child and the
17 parent or other family or household member who is the victim of domestic violence, **and any**
18 **other children for whom the parent has contact** from any further harm. The court, if
19 requested by a party, shall make specific findings of fact to show that the visitation arrangements
20 made by the court best protect the child or the parent or other family or household member who
21 is the victim of domestic violence, **or any other child for whom the parent has contact** from
22 any further harm.

23 2. The court may modify an order granting or denying visitation rights whenever
24 modification would serve the best interests of the child, but the court shall not restrict a parent's

25 visitation rights unless it finds that the visitation would endanger the child's physical health or
26 impair his **or her** emotional development. When a court restricts a parent's visitation rights or
27 when a court orders supervised visitation because of allegations of abuse or domestic violence,
28 a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised
29 visitation may be ordered. "Supervised visitation", as used in this section, is visitation which
30 takes place in the presence of a responsible adult appointed by the court for the protection of the
31 child.

32 3. The court shall mandate compliance with its order by all parties to the action,
33 including parents, children and third parties. In the event of noncompliance, the aggrieved
34 person may file a verified motion for contempt. If custody, visitation or third-party custody is
35 denied or interfered with by a parent or third party without good cause, the aggrieved person may
36 file a family access motion with the court stating the specific facts which constitute a violation
37 of the judgment of dissolution or legal separation. The state courts administrator shall develop
38 a simple form for pro se motions to the aggrieved person, which shall be provided to the person
39 by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved
40 parties the procedures for filing the form. Notice of the fact that clerks will provide such
41 assistance shall be conspicuously posted in the clerk's offices. The location of the office where
42 the family access motion may be filed shall be conspicuously posted in the court building. The
43 performance of duties described in this section shall not constitute the practice of law as defined
44 in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal
45 counsel to prepare and file. The cost of filing the motion shall be the standard court costs
46 otherwise due for instituting a civil action in the circuit court.

47 4. Within five court days after the filing of the family access motion pursuant to
48 subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable
49 state law, and applicable local or supreme court rules. A copy of the motion shall be personally
50 served upon the respondent by personal process server as provided by law or by any sheriff.
51 Such service shall be served at the earliest time and shall take priority over service in other civil
52 actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The
53 motion shall contain the following statement in boldface type: "PURSUANT TO SECTION
54 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN
55 TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT
56 CLERK MAY RESULT IN THE FOLLOWING:

57 (1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION
58 OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED
59 PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

60 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE

61 VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A
62 CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

63 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST
64 THE VIOLATOR;

65 (4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE
66 FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

67 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO
68 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED
69 PARTY AND THE CHILD; AND

70 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE
71 EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY
72 INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF
73 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY.".

74 5. If an alternative dispute resolution program is available pursuant to section 452.372,
75 the clerk shall also provide information to all parties on the availability of any such services, and
76 within fourteen days of the date of service, the court may schedule alternative dispute resolution.

77 6. Upon a finding by the court pursuant to a motion for a family access order or a motion
78 for contempt that its order for custody, visitation or third-party custody has not been complied
79 with, without good cause, the court shall order a remedy, which may include, but not be limited
80 to:

81 (1) A compensatory period of visitation, custody or third-party custody at a time
82 convenient for the aggrieved party not less than the period of time denied;

83 (2) Participation by the violator in counseling to educate the violator about the
84 importance of providing the child with a continuing and meaningful relationship with both
85 parents;

86 (3) Assessment of a fine of up to five hundred dollars against the violator payable to the
87 aggrieved party;

88 (4) Requiring the violator to post bond or security to ensure future compliance with the
89 court's access orders; and

90 (5) Ordering the violator to pay the cost of counseling to reestablish the parent-child
91 relationship between the aggrieved party and the child.

92 7. The reasonable expenses incurred as a result of denial or interference with custody or
93 visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody
94 or third-party custody, shall be assessed, if requested and for good cause, against the parent or
95 party who unreasonably denies or interferes with visitation, custody or third-party custody. In
96 addition, the court may utilize any and all powers relating to contempt conferred on it by law or

97 rule of the Missouri supreme court.

98 8. Final disposition of a motion for a family access order filed pursuant to this section
99 shall take place not more than sixty days after the service of such motion, unless waived by the
100 parties or determined to be in the best interest of the child. Final disposition shall not include
101 appellate review.

102 9. Motions filed pursuant to this section shall not be deemed an independent civil action
103 from the original action pursuant to which the judgment or order sought to be enforced was
104 entered.

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] **with another person** for care if the right to
20 supervise the care of the child and to resume custody thereof is retained, or from placing a child
21 with a licensed foster home within the state through a child placing agency licensed by this state
22 as part of a preadoption placement.

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

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

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

28 (3) A petition for transfer of custody for adoption has been properly filed or an order

29 terminating parental rights has been properly filed;

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

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

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

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

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

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

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

39 (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,] **person** for a period not exceeding one year, any of his **or her** powers
3 regarding care or custody of the minor child, except his **or her** power to consent to marriage or
4 adoption of the minor child.

491.075. 1. A statement made by a child under the age of [twelve] **fourteen** relating to
2 an offense under chapter 565, 566 or 568, RSMo, performed with or on a child by another, not
3 otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings
4 in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

5 (1) The court finds, in a hearing conducted outside the presence of the jury that the time,
6 content and circumstances of the statement provide sufficient indicia of reliability; and

7 (2) (a) The child testifies at the proceedings; or

8 (b) The child is unavailable as a witness; or

9 (c) The child is otherwise physically available as a witness but the court finds that the
10 significant emotional or psychological trauma which would result from testifying in the personal
11 presence of the defendant makes the child unavailable as a witness at the time of the criminal
12 proceeding.

13 2. Notwithstanding subsection 1 of this section or any provision of law or rule of
14 evidence requiring corroboration of statements, admissions or confessions of the defendant, and
15 notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age
16 of [twelve] **fourteen** who is alleged to be victim of an offense under chapter 565, 566 or 568,
17 RSMo, is sufficient corroboration of a statement, admission or confession regardless of whether
18 or not the child is available to testify regarding the offense.

19 3. A statement may not be admitted under this section unless the prosecuting attorney
20 makes known to the accused or [his] **the accused's** counsel his **or her** intention to offer the
21 statement and the particulars of the statement sufficiently in advance of the proceedings to

22 provide the accused or [his] **the accused's** counsel with a fair opportunity to prepare to meet the
23 statement.

24 4. Nothing in this section shall be construed to limit the admissibility of statements,
25 admissions or confessions otherwise admissible by law.

492.304. 1. In addition to the admissibility of a statement under the provisions of section
2 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under
3 the age of [twelve] **fourteen** who is alleged to be a victim of an offense under the provisions of
4 chapter 565, 566 or 568, RSMo, is admissible into evidence if:

5 (1) No attorney for either party was present when the statement was made; **except that,**
6 **for any statement taken at a state-funded child assessment center as provided for in**
7 **subsection 2 of section 210.001, RSMo, an attorney representing the state of Missouri in**
8 **a criminal investigation may, as a member of a multidisciplinary investigation team,**
9 **observe the taking of such statement, but such attorney shall not be present in the room**
10 **where the interview is being conducted;**

11 (2) The recording is both visual and aural and is recorded on film or videotape or by
12 other electronic means;

13 (3) The recording equipment was capable of making an accurate recording, the operator
14 of the equipment was competent, and the recording is accurate and has not been altered;

15 (4) The statement was not made in response to questioning calculated to lead the child
16 to make a particular statement or to act in a particular way;

17 (5) Every voice on the recording is identified;

18 (6) The person conducting the interview of the child in the recording is present at the
19 proceeding and available to testify or be cross-examined by either party; and

20 (7) The defendant or the attorney for the defendant is afforded an opportunity to view
21 the recording before it is offered into evidence.

22 2. If the child does not testify at the proceeding, the visual and aural recording of a verbal
23 or nonverbal statement of the child shall not be admissible under this section unless the recording
24 qualifies for admission under section 491.075, RSMo.

25 3. If the visual and aural recording of a verbal or nonverbal statement of a child is
26 admissible under this section and the child testifies at the proceeding, it shall be admissible in
27 addition to the testimony of the child at the proceeding whether or not it repeats or duplicates the
28 child's testimony.

29 4. As used in this section, a nonverbal statement shall be defined as any demonstration
30 of the child by his or her actions, facial expressions, demonstrations with a doll or other visual
31 aid whether or not this demonstration is accompanied by words.

537.046. 1. As used in this section, the following terms mean:

2 (1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff
3 which act occurred when the plaintiff was under the age of eighteen years and which act would
4 have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090,
5 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

6 (2) "Injury" or "illness", either a physical injury or illness or a psychological injury or
7 illness. A psychological injury or illness need not be accompanied by physical injury or illness.

8 2. In any civil action for recovery of damages [suffered as a result of childhood] **for**
9 **injury or illness caused by child** sexual abuse, the time for commencement of the action shall
10 be within [five] **twelve** years of the date the plaintiff attains the age of eighteen or within three
11 years of the date the plaintiff discovers or reasonably should have discovered that the injury or
12 illness was caused by child sexual abuse, whichever later occurs.

13 3. This section shall apply to any action commenced on or after [August 28, 1990] **the**
14 **effective date of this section**, including any action which would have been barred by the
15 application of the statute of limitation applicable prior to that date.

630.097. 1. The department of mental health shall develop, in partnership with all
2 **departments represented on the children's services commission, a unified accountable**
3 **comprehensive children's mental health service system. The department of mental health**
4 **shall establish a state interagency comprehensive children's mental health service system**
5 **team comprised of representation from:**

6 (1) **Family run organizations and family members;**

7 (2) **Child advocate organizations;**

8 (3) **The department of health and senior services;**

9 (4) **The department of social services' children's division, division of youth services,**
10 **and the division of medical services;**

11 (5) **The department of elementary and secondary education;**

12 (6) **The department of mental health's division of alcohol and drug abuse, division**
13 **of mental retardation and developmental disabilities, and the division of comprehensive**
14 **psychiatric services;**

15 (7) **The department of public safety;**

16 (8) **The office of state courts administrator;**

17 (9) **The juvenile justice system; and**

18 (10) **Local representatives of the member organizations of the state team to serve**
19 **children with emotional and behavioral disturbance problems, developmental disabilities,**
20 **and substance abuse problems;**

21

22 **The team shall be called "The Comprehensive System Management Team". There shall**

23 be a stakeholder advisory committee to provide input to the comprehensive system
24 management team to assist the departments in developing strategies and to ensure positive
25 outcomes for children are being achieved. The department of mental health shall obtain
26 input from appropriate consumer and family advocates when selecting family members for
27 the comprehensive system management team, in consultation with the departments that
28 serve on the children's services commission. The implementation of a comprehensive
29 system shall include all state agencies and system partner organizations involved in the
30 lives of the children served. These system partners may include private and not-for-profit
31 organizations and representatives from local system of care teams and these partners may
32 serve on the stakeholder advisory committee. The department of mental health shall
33 promulgate rules for the implementation of this section in consultation with all of the
34 departments represented in the children's services commission.

35 2. The department of mental health shall, in partnership with the departments
36 serving on the children's services commission and the stakeholder advisory committee,
37 develop a state comprehensive children's mental health service system plan. This plan
38 shall be developed and submitted to the governor, the general assembly, and children's
39 services commission by December, 2004. There shall be subsequent annual reports that
40 include progress toward outcomes, monitoring, changes in populations and services, and
41 emerging issues. The plan shall:

42 (1) Describe the mental health service and support needs of Missouri's children and
43 their families, including the specialized needs of specific segments of the population;

44 (2) Define the comprehensive array of services including services such as intensive
45 home-based services, early intervention services, family support services, respite services,
46 and behavioral assistance services;

47 (3) Establish short and long term goals, objectives, and outcomes;

48 (4) Describe and define the parameters for local implementation of comprehensive
49 children's mental health system teams;

50 (5) Describe and emphasize the importance of family involvement in all levels of the
51 system;

52 (6) Describe the mechanisms for financing, and the cost of implementing the
53 comprehensive array of services;

54 (7) Describe the coordination of services across child serving agencies and at critical
55 transition points, with emphasis on the involvement of local schools;

56 (8) Describe methods for service, program, and system evaluation;

57 (9) Describe the need for, and approaches to, training and technical assistance; and

58 (10) Describe the roles and responsibilities of the state and local child serving

59 agencies in implementing the comprehensive children's mental health care system.

60 **3. The comprehensive system management team shall collaborate to develop**
61 **uniform language to be used in intake and throughout provision of services.**

62 **4. The comprehensive children's mental health services system shall:**

63 **(1) Be child centered, family focused, strength-based, and family driven, with the**
64 **needs of the child and family dictating the types and mix of services provided, and shall**
65 **include the families as full participants in all aspects of the planning and delivery of**
66 **services;**

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

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

70 **(4) Emphasize prevention, early identification, and intervention;**

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

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

73 **(b) Address the unique physical, behavioral, emotional, social, developmental, and**
74 **educational needs of children;**

75 **(c) Are coordinated with the range of social and human services provided to**
76 **children and their families by local school districts, social services, health and senior**
77 **services, public safety, juvenile offices, and the juvenile and family courts;**

78 **(d) Provide a comprehensive array of services through an integrated service plan;**

79 **(e) Provide services in the least restrictive most appropriate environment that meets**
80 **the needs of the child; and**

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

82 **(6) Include early screening and prompt intervention to:**

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

85 **(b) Prevent further deterioration;**

86 **(7) Address the unique problems of paying for mental health services for children,**
87 **including:**

88 **(a) Access to private insurance coverage;**

89 **(b) Public funding, including:**

90 **a. Assuring that funding follows children across departments; and**

91 **b. Maximizing federal financial participation;**

92 **(c) Private funding and services;**

93 **(8) Assure a smooth transition from child to adult mental health services when**
94 **needed;**

95 **(9) Coordinate a service delivery system inclusive of services, providers, and schools**
96 **that serve children and youth with emotional and behavioral disturbance problems, and**
97 **their families through state agencies that serve on the state comprehensive children's**
98 **management team; and**

99 **(10) Be outcome based.**

100 **5. By August 28, 2007, and periodically thereafter, the children's services**
101 **commission shall conduct and distribute to the general assembly an evaluation of the**
102 **implementation and effectiveness of the comprehensive children's mental health care**
103 **system, including an assessment of family satisfaction and the progress of achieving**
104 **outcomes.**

630.210. 1. The director shall determine the maximum amount for services which shall
2 be charged in each of the residential facilities, day programs or specialized services operated or
3 funded by the department for full-time or part-time inpatient, resident or outpatient evaluation,
4 care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental
5 disorder, mental illness, mental retardation, developmental disability or drug or alcohol abuse.
6 The maximum charge shall be related to the per capita inpatient cost or actual outpatient
7 evaluation or other service costs of each facility, program or service, which may vary from one
8 locality to another. The director shall promulgate rules setting forth a reasonable standard means
9 test which shall be applied by all facilities, programs and services operated or funded by the
10 department in determining the amount to be charged to persons receiving services. The
11 department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for
12 the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or
13 arranged by the department for any patient, resident or client who is domiciled in Missouri and
14 who is unable to pay fully for services.

15 2. The director shall apply the standard means test annually and may make application
16 of the test upon his own initiative or upon request of an interested party whenever evidence is
17 offered tending to show that the current support status of any patient, resident or client is no
18 longer proper. Any change of support status shall be retroactive to the date of application or
19 request for review. If the persons responsible to pay under section 630.205 or 552.080, RSMo,
20 refuse to cooperate in providing information necessary to properly apply the test or if retroactive
21 benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a
22 date prior to the date of application or request for review. The decision of the director in
23 determining the amount to be charged for services to a patient, resident or client shall be final.
24 Appeals from the determination may be taken to the circuit court of Cole County or the county
25 where the person responsible for payment resides in the manner provided by chapter 536, RSMo.

26 3. The department shall not pay for services provided to a patient, resident or client who

27 is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the
28 department may pay for services provided to a transient person for up to thirty days pending
29 verification of his domiciliary state, and for services provided for up to thirty days in an
30 emergency situation. The director shall promulgate rules for determination of the domiciliary
31 state of any patient, resident or client receiving services from a facility, program or service
32 operated or funded by the department.

33 4. Whenever a patient, resident or client is receiving services from a residential facility,
34 day program or specialized service operated or funded by the department, and the state, county,
35 municipality, parent, guardian or other person responsible for support of the patient, resident or
36 client fails to pay any installment required to be paid for support, the department or the
37 residential facility, day program or specialized service may discharge the patient, resident or
38 client as provided by chapter 31, RSMo. The patient, resident or client shall not be discharged
39 under this subsection until the final disposition of any appeal filed under subsection 2 of this
40 section.

41 **5. The standard means test may be waived for a child in need of mental health**
42 **services to avoid inappropriate custody transfers to the children's division. The**
43 **department of mental health shall notify the child's parent or custodian that the standard**
44 **means test may be waived. The department of mental health shall promulgate rules for**
45 **waiving the standard means test. Any rule or portion of a rule, as that term is defined in**
46 **section 536.010, RSMo, that is created under the authority delegated in this section shall**
47 **become effective only if it complies with and is subject to all of the provisions of chapter**
48 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
49 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
50 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
51 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
52 **authority and any rule proposed or adopted after August 28, 2004, shall be invalid and**
53 **void.**

701.336. 1. The department of health and senior services shall cooperate with the federal
2 government in implementing subsections (d) and (e) of 15 U.S.C. 2685 to establish public
3 education activities and an information clearinghouse regarding childhood lead poisoning. The
4 department may develop additional educational materials on lead hazards to children, lead
5 poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health
6 hazards during abatement.

7 2. **The department of health and senior services and the department of social**
8 **services, in collaboration with related not-for-profit organizations, health maintenance**
9 **organizations, and the Missouri consolidated health care plan, shall devise an educational**

10 strategy to increase the number of children who are tested for lead poisoning under the
11 Medicaid program. The goal of the educational strategy is to have seventy-five percent of
12 the children who receive Medicaid tested for lead poisoning. The educational strategy shall
13 be implemented over a three-year period and shall be in accordance with all federal laws
14 and regulations.

15 3. The division of family services, in collaboration with the department of health and
16 senior services, shall regularly inform eligible clients of the availability and desirability of lead
17 screening and treatment services, including those available through the early and periodic
18 screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

Section 1. For purposes of proceedings and investigations conducted pursuant to
2 chapter 211, RSMo, children shall be promptly returned to the care and custody of a
3 nonoffending parent entitled to physical custody of the child if:

4 (1) The parents have continuously maintained joint domicile for a period of at least
5 six months prior to the alleged incident or the parents are maintaining separate
6 households; and

7 (2) A preponderance of the evidence indicates that only one of the parents is the
8 subject of an investigation of abuse or neglect; and

9 (3) The nonoffending parent does not have a history of criminal behavior, drug or
10 alcohol abuse, child abuse or child neglect, domestic violence, stalking, or full orders of
11 protection entered against them within the past five years; and

12 (4) The parents are maintaining joint domicile and the offending parent is removed
13 from the home voluntarily or involuntarily, or the parents live separately and the child is
14 removed from the home of the custodial parent; and

15 (5) A nonoffending parent requests custody of the child and agrees to cooperate
16 with any orders of the court limiting contact or establishing visitation with the offending
17 parent and the nonoffending parent complies with such orders.

18
19 When the parents maintain joint domicile, the offending parent shall be presumed to have
20 given permission for the nonoffending parent to live in the household. The court shall
21 order temporary or permanent change of custody of the child to the nonoffending parent
22 if the nonoffending parent does not have legal custody of the child, and shall order
23 modifications to any public assistance benefits which may be required to assure the well-
24 being of the child.

Section 2. If any provision of this act is found by a court of competent jurisdiction
2 to be invalid or unconstitutional it is the stated intent of the legislature that the legislature
3 would have approved the remaining portions of the act, and the remaining portions of the

4 **act shall remain in full force and effect.**

2 [26.740. 1. There is hereby created within the office of the
3 governor a "Child Abuse, Custody and Neglect Commission" which
4 shall evaluate the laws and rules relating to child abuse, neglect, child
5 custody and visitation and termination of parental rights and shall
6 make recommendations on further action or legislative remedies, if
7 any, to be taken as necessary. The commission shall review and
8 recommend standardized guidelines for judicial review of what
9 constitutes the best interest of the child.

10 2. The child abuse, custody and neglect commission shall be
11 composed of twelve members to be appointed by the governor,
12 including a county prosecutor, a law enforcement officer, a juvenile
13 officer, a certified guardian ad litem, a juvenile court judge, a member
14 of the clergy, a psychologist, a pediatrician, an educator, the chairman
15 of the children's services commission, a division of family services
16 designee, and one citizen of the state of Missouri, chosen to reflect
17 the racial composition of the state, to serve four-year terms and of the
18 members first appointed, four shall serve for a term of two years, four
19 shall serve for a term of three years, and four shall serve for a term of
20 four years.

21 3. The commission shall make its first report to the governor
22 and the general assembly by February 1, 2002, and any subsequent
23 reports shall be made to the governor, the chief justice of the supreme
24 court and the general assembly as necessary.

25 4. All members shall serve without compensation but shall be
26 reimbursed for all actual and necessary expenses incurred in the
27 performance of their official duties for the commission.

28 5. The office of the governor shall provide funding,
29 administrative support, and staff for the effective operation of the
30 commission.

31 6. This section shall expire on August 28, 2004.]

Section B. Because immediate action is necessary to ensure the safety of children
2 receiving child protective services section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act shall be in full
5 force and effect on July 1, 2004, or upon its passage and approval, whichever later occurs.