

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE

FOR  
HOUSE BILL NO. 1453

1 AN ACT

2 To repeal sections 26.740, 43.503, 43.540,  
3 135.327, 135.333, 167.020, 207.050, 207.060,  
4 208.152, 208.204, 210.025, 210.109, 210.110,  
5 210.145, 210.150, 210.152, 210.153, 210.160,  
6 210.183, 210.201, 210.211, 210.518, 210.565,  
7 210.760, 210.903, 210.909, 211.031, 211.032,  
8 211.059, 211.171, 211.181, 302.272, 402.199,  
9 402.200, 402.205, 402.215, 402.217, 431.056,  
10 452.375, 452.400, 453.110, 475.024, 491.075,  
11 492.304, 537.046, 630.210, and 701.336, RSMo,  
12 and to enact in lieu thereof seventy-five new  
13 sections relating to foster care and  
14 protection of children, with penalty  
15 provisions and an emergency clause.

---

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
17 AS FOLLOWS:

18 Section A. Sections 26.740, 43.503, 43.540, 135.327,  
19 135.333, 167.020, 207.050, 207.060, 208.152, 208.204, 210.025,  
20 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160,  
21 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903,  
22 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 302.272,  
23 402.199, 402.200, 402.205, 402.215, 402.217, 431.056, 452.375,  
24 452.400, 453.110, 475.024, 491.075, 492.304, 537.046, 630.210,

1 and 701.336, RSMo, are repealed and seventy-five new sections  
2 enacted in lieu thereof, to be known as sections 37.699, 37.700,  
3 37.705, 37.710, 37.715, 37.725, 37.730, 43.503, 43.540, 135.327,  
4 135.333, 167.020, 168.283, 191.748, 207.050, 207.060, 207.085,  
5 208.152, 208.204, 208.647, 210.025, 210.109, 210.110, 210.111,  
6 210.112, 210.113, 210.117, 210.127, 210.145, 210.147, 210.150,  
7 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.201,  
8 210.211, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565,  
9 210.760, 210.762, 210.903, 210.909, 211.031, 211.032, 211.038,  
10 211.059, 211.171, 211.181, 211.319, 302.272, 402.199, 402.200,  
11 402.205, 402.215, 402.217, 431.056, 452.375, 452.400, 453.110,  
12 475.024, 491.075, 492.304, 537.046, 630.097, 630.210, 701.336, 1,  
13 and 2, to read as follows:

14 37.699. Sections 37.700 to 37.730, 168.283, 191.748,  
15 207.085, 210.109, 210.110, 210.111, 210.112, 210.113, 210.127,  
16 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183,  
17 210.187, 210.188, 210.482, 210.487, 210.518, 210.535, 210.542,  
18 210.565, 210.760, 210.762, 211.031, 211.032, 211.059, 211.319,  
19 and 537.046, RSMo, shall be known and may be cited as the  
20 "Dominic James Memorial Foster Care Reform Act of 2004".

21 37.700. As used in sections 37.700 to 37.730, the following  
22 terms mean:

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

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

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

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

22       37.710. 1. The office shall have access to the following  
23 information:

24       (1) The names and physical location of all children in  
25 protective services, treatment, or other programs under the

1 jurisdiction of the children's division, the department of mental  
2 health, and the juvenile court;

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

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

6 2. The office shall have the authority:

7 (1) To communicate privately by any means possible with any  
8 child in treatment or under protective services and anyone  
9 working with the child, including the family, relatives, courts,  
10 employees of the department of social services and the department  
11 of mental health, and other persons or entities providing  
12 treatment and services;

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

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

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

24 (5) To initiate meetings with the department of social  
25 services, the department of mental health, the juvenile court,

1 and juvenile officers;

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

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

12 (8) Subject to appropriation, to establish as needed local  
13 panels on a regional or county basis to adequately and  
14 efficiently carry out the functions and duties of the office, and  
15 address complaints in a timely manner.

16 37.715. 1. The office shall establish and implement  
17 procedures for receiving, processing, responding to, and  
18 resolving complaints made by or on behalf of children who are  
19 recipients of the services of the departments of social services  
20 and mental health, and the juvenile court. Such procedures shall  
21 address complaints relating to the actions, inactions, or  
22 decisions of providers or their representatives, public or  
23 private child welfare agencies, social service agencies, or the  
24 courts which may adversely affect the health, safety, welfare, or  
25 rights of such recipient.

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

4       3. The office shall have the authority to make the  
5 necessary inquiries and review relevant information and records  
6 as the office deems necessary.

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

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

22       6. The office shall annually submit to the governor, the  
23 general assembly, and the Missouri supreme court a detailed  
24 report on the work of the office of the child advocate for  
25 children's protection and services. Such report shall include,

1 but not be limited to, the number of complaints received by the  
2 office, the disposition of such complaints, the number of  
3 recipients involved in complaints, the state entities named in  
4 complaints and whether such complaints were found to be  
5 substantiated, and any recommendations for improving the delivery  
6 of services to reduce complaints or improving the function of the  
7 office of the child advocate for children's protection and  
8 services.

9 37.725. 1. Any files maintained by the advocate program  
10 shall be disclosed only at the discretion of the child advocate;  
11 except that the identity of any complainant or recipient shall  
12 not be disclosed by the office unless:

13 (1) The complainant or recipient, or the complainant's or  
14 recipient's legal representative, consents in writing to such  
15 disclosure; or

16 (2) Such disclosure is required by court order.

17 2. Any statement or communication made by the office  
18 relevant to a complaint received by, proceedings before, or  
19 activities of the office and any complaint or information made or  
20 provided in good faith by any person shall be absolutely  
21 privileged and such person shall be immune from suit.

22 3. Any representative of the office conducting or  
23 participating in any examination of a complaint who knowingly and  
24 willfully discloses to any person other than the office, or those  
25 persons authorized by the office to receive it, the name of any

1 witness examined or any information obtained or given during such  
2 examination is guilty of a class A misdemeanor. However, the  
3 office conducting or participating in any examination of a  
4 complaint shall disclose the final result of the examination with  
5 the consent of the recipient.

6 4. The office shall not be required to testify in any court  
7 with respect to matters held to be confidential in this section  
8 except as the court may deem necessary to enforce the provisions  
9 of sections 37.700 to 37.730, or where otherwise required by  
10 court order.

11 37.730. 1. Any employee or an unpaid volunteer of the  
12 office shall be treated as a representative of the office. No  
13 representative of the office shall be held liable for good faith  
14 performance of his or her official duties under the provisions of  
15 sections 37.700 to 37.730 and such representative shall be immune  
16 from suit for the good faith performance of such duties. Every  
17 representative of the office shall be considered a state employee  
18 under section 105.711, RSMo.

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

24 43.503. 1. For the purpose of maintaining complete and  
25 accurate criminal history record information, all police officers



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

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

23 3. In instances where an individual less than seventeen  
24 years of age and not currently certified as an adult is taken  
25 into custody for an offense which would be a felony if committed

1 by an adult, the arresting officer shall take fingerprints for  
2 the central repository. These fingerprints shall be taken on  
3 fingerprint cards supplied by or approved by the highway patrol  
4 or transmitted electronically in a format and manner approved by  
5 the highway patrol. The fingerprint cards shall be so  
6 constructed that the name of the juvenile should not be made  
7 available to the central repository. The individual's name and  
8 the unique number associated with the fingerprints and other  
9 pertinent information shall be provided to the court of  
10 jurisdiction by the agency taking the juvenile into custody. The  
11 juvenile's fingerprints and other information shall be forwarded  
12 to the central repository and the courts without undue delay.  
13 The fingerprint information from the card shall be captured and  
14 stored in the automated fingerprint identification system  
15 operated by the central repository. In the event the  
16 fingerprints are found to match other tenprints or unsolved  
17 latent prints, the central repository shall notify the submitting  
18 agency who shall notify the court of jurisdiction as per local  
19 agreement.

20 4. Upon certification of the individual as an adult, the  
21 certifying court shall order a law enforcement agency to  
22 immediately fingerprint the individual. The law enforcement  
23 agency shall submit such fingerprints to the central repository  
24 within fifteen days and shall furnish the offense cycle number  
25 associated with the fingerprints to the prosecuting attorney or

1 the circuit attorney of a city not within a county and to the  
2 clerk of the court ordering the subject fingerprinted. If the  
3 juvenile is acquitted of the crime and is no longer certified as  
4 an adult, the prosecuting attorney shall notify within fifteen  
5 days the central repository of the change of status of the  
6 juvenile. Records of a child who has been fingerprinted and  
7 photographed after being taken into custody shall be closed  
8 records as provided under section 610.100, RSMo, if a petition  
9 has not been filed within thirty days of the date that the child  
10 was taken into custody; and if a petition for the child has not  
11 been filed within one year of the date the child was taken into  
12 custody, any records relating to the child concerning the alleged  
13 offense may be expunged under the procedures in sections 610.122  
14 to 610.126, RSMo.

15 5. The prosecuting attorney of each county or the circuit  
16 attorney of a city not within a county shall notify the central  
17 repository on standard forms supplied by the highway patrol or in  
18 a manner approved by the highway patrol of all charges filed,  
19 including all those added subsequent to the filing of a criminal  
20 court case, and whether charges were not filed in criminal cases  
21 for which the central repository has a record of an arrest. All  
22 records forwarded to the central repository by prosecutors or  
23 circuit attorneys as required by sections 43.500 to 43.530 shall  
24 include the state offense cycle number of the offense, the charge  
25 code for the offense, and the originating agency identifier

1 number of the reporting prosecutor, using such numbers as  
2 assigned by the highway patrol.

3 6. The clerk of the courts of each county or city not  
4 within a county shall furnish the central repository, on standard  
5 forms supplied by the highway patrol or in a manner approved by  
6 the highway patrol, with all final dispositions of cases for  
7 which the central repository has a record of an arrest or a  
8 record of fingerprints reported pursuant to sections 43.500 to  
9 43.506. Such information shall include, for each charge:

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

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

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

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

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

1 documents and the state offense cycle number and the charge code  
2 of the offense which resulted in the commitment or assignment of  
3 an offender to the jurisdiction of the department of corrections  
4 or the department of mental health if the person is committed  
5 pursuant to chapter 552, RSMo. This information shall be  
6 reported to the department of corrections or the department of  
7 mental health at the time of commitment or assignment. If the  
8 offender was already in the custody of the department of  
9 corrections or the department of mental health at the time of  
10 such subsequent conviction, the clerk shall furnish notice of  
11 such subsequent conviction to the appropriate department by  
12 certified mail, return receipt requested, or in a manner and  
13 format mutually agreed to, within fifteen days of such  
14 disposition.

15 8. Information and fingerprints, and other indicia  
16 forwarded to the central repository, normally obtained from a  
17 person at the time of the arrest, may be obtained at any time the  
18 subject is in the criminal justice system or committed to the  
19 department of mental health. A law enforcement agency or the  
20 department of corrections may fingerprint the person and obtain  
21 the necessary information at any time the subject is in custody.  
22 If at the time of disposition, the defendant has not been  
23 fingerprinted for an offense in which a fingerprint is required  
24 by statute to be collected, maintained, or disseminated by the  
25 central repository, the court shall order a law enforcement

1 agency to fingerprint immediately the defendant. The law  
2 enforcement agency shall submit such fingerprints to the central  
3 repository without undue delay and within thirty days and shall  
4 furnish the offense cycle number associated with the fingerprints  
5 to the prosecuting attorney or the circuit attorney of a city not  
6 within a county and to the court clerk of the court ordering the  
7 subject fingerprinted.

8 9. The department of corrections and the department of  
9 mental health shall furnish the central repository with all  
10 information concerning the receipt, escape, execution, death,  
11 release, pardon, parole, commutation of sentence, granting of  
12 executive clemency, legal name change, or discharge of an  
13 individual who has been sentenced to that department's custody  
14 for any offenses which are mandated by law to be collected,  
15 maintained or disseminated by the central repository. All  
16 records forwarded to the central repository by the department as  
17 required by sections 43.500 to 43.543 shall include the offense  
18 cycle number of the offense, and the originating agency  
19 identifier number of the department using such numbers as  
20 assigned by the highway patrol.

21 43.540. 1. As used in this section, the following terms  
22 mean:

23 (1) "Authorized state agency", a division of state  
24 government or an office of state government designated by the  
25 statutes of Missouri to issue or renew a license, permit,

1 certification, or registration of authority to a qualified  
2 entity;

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

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

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

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

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

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

22 (b) a. Is employed by or seeks employment with a qualified  
23 entity; or

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

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

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

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

12            2. A qualified entity may obtain a Missouri criminal record  
13 review of a provider from the highway patrol by furnishing  
14 information on forms and in the manner approved by the highway  
15 patrol.

16            3. A qualified entity may request a Missouri criminal  
17 record review and a national criminal record review of a provider  
18 through an authorized state agency. No authorized state agency  
19 is required by this section to process Missouri or national  
20 criminal record reviews for a qualified entity, however, if an  
21 authorized state agency agrees to process Missouri and national  
22 criminal record reviews for a qualified entity, the qualified  
23 entity shall provide to the authorized state agency on forms and  
24 in a manner approved by the highway patrol the following:

25            (1) Two sets of fingerprints of the provider if a national



1 criminal record review is requested;

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

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

4 (b) Whether the provider has been convicted of or has pled  
5 guilty to a crime which includes a suspended imposition of  
6 sentence;

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

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

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

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

17 4. The authorized state agency shall forward the required  
18 forms and fees to the highway patrol. The results of the record  
19 review shall be forwarded to the authorized state agency who will  
20 notify the qualified entity. The authorized state agency may  
21 assess a fee to the qualified entity to cover the cost of  
22 handling the criminal record review and may establish an account  
23 solely for the collection and dissemination of fees associated  
24 with the criminal record reviews.

25 5. Any information received by an authorized state agency

1 or a qualified entity pursuant to the provisions of this section  
2 shall be used solely for internal purposes in determining the  
3 suitability of a provider. The dissemination of criminal history  
4 information from the Federal Bureau of Investigation beyond the  
5 authorized state agency or related governmental entity is  
6 prohibited. All criminal record check information shall be  
7 confidential and any person who discloses the information beyond  
8 the scope allowed is guilty of a class A misdemeanor.

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

12 135.327. 1. Any [person] individual residing in this state  
13 who legally adopts a special needs child on or after January 1,  
14 1988, and before January 1, 2000, shall be eligible to receive a  
15 tax credit of up to ten thousand dollars for nonrecurring  
16 adoption expenses for each child adopted that may be applied to  
17 taxes due under chapter 143, RSMo. Any business entity providing  
18 funds to an employee to enable that employee to legally adopt a  
19 special needs child shall be eligible to receive a tax credit of  
20 up to ten thousand dollars for nonrecurring adoption expenses for  
21 each child adopted that may be applied to taxes due under such  
22 business entity's state tax liability, except that only one ten  
23 thousand dollar credit is available for each special needs child  
24 that is adopted.

25 2. Any [person] individual residing in this state who

1 proceeds in good faith with the adoption of a special needs child  
2 on or after January 1, 2000, shall be eligible to receive a tax  
3 credit of up to ten thousand dollars for nonrecurring adoption  
4 expenses for each child that may be applied to taxes due under  
5 chapter 143, RSMo, or which shall be refunded in an amount in  
6 excess of the individual's tax liability for the year in which  
7 the credit is claimed. Any business entity providing funds to an  
8 employee to enable that employee to proceed in good faith with  
9 the adoption of a special needs child shall be eligible to  
10 receive a tax credit of up to ten thousand dollars for  
11 nonrecurring adoption expenses for each child that may be applied  
12 to taxes due under such business entity's state tax liability,  
13 except that only one ten thousand dollar credit is available for  
14 each special needs child that is adopted.

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

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

6           135.333. 1. Except as provided in subsection 2 of section  
7 135.327, any amount of tax credit which exceeds the tax due shall  
8 not be refunded but may be carried over to any subsequent taxable  
9 year, not to exceed a total of five years for which a tax credit  
10 may be taken for each child adopted.

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

14           167.020. 1. As used in this section, the term "homeless  
15 child" or "homeless youth" shall mean a person less than  
16 twenty-one years of age who lacks a fixed, regular and adequate  
17 nighttime residence, including a child or youth who:

18           (1) Is [living on the street, in a car, tent, abandoned  
19 building or some other form of shelter not designed as a  
20 permanent home;

21           (2) Is living in a community shelter facility;

22           (3) Is living in transitional housing for less than one  
23 full year] sharing the housing of other persons due to loss of  
24 housing, economic hardship, or a similar reason; is living in  
25 motels, hotels, trailer parks, or camping grounds due to lack of

1 alternative adequate accommodations; is living in emergency or  
2 transitional shelters; is abandoned in hospitals; or is awaiting  
3 foster care placement;

4 (2) Has a primary nighttime residence that is a public or  
5 private place not designed for or ordinarily used as a regular  
6 sleeping accommodation for human beings;

7 (3) Is living in cars, parks, public spaces, abandoned  
8 buildings, substandard housing, bus or train stations, or similar  
9 settings; and

10 (4) Is a migratory child or youth who qualify as homeless  
11 because the child or youth is living in circumstances described  
12 in subdivisions (1) to (3) of this subsection.

13 2. In order to register a pupil, the parent or legal  
14 guardian of the pupil or the pupil himself or herself shall  
15 provide, at the time of registration, one of the following:

16 (1) Proof of residency in the district. Except as  
17 otherwise provided in section 167.151, the term "residency" shall  
18 mean that a person both physically resides within a school  
19 district and is domiciled within that district. The domicile of  
20 a minor child shall be the domicile of a parent, military  
21 guardian pursuant to a military-issued guardianship or  
22 court-appointed legal guardian; or

23 (2) Proof that the person registering the student has  
24 requested a waiver under subsection 3 of this section within the  
25 last forty-five days. In instances where there is reason to

1 suspect that admission of the pupil will create an immediate  
2 danger to the safety of other pupils and employees of the  
3 district, the superintendent or the superintendent's designee may  
4 convene a hearing within three working days of the request to  
5 register and determine whether or not the pupil may register.

6 3. Any person subject to the requirements of subsection 2  
7 of this section may request a waiver from the district board of  
8 any of those requirements on the basis of hardship or good cause.  
9 Under no circumstances shall athletic ability be a valid basis of  
10 hardship or good cause for the issuance of a waiver of the  
11 requirements of subsection 2 of this section. The district board  
12 shall convene a hearing as soon as possible, but no later than  
13 forty-five days after receipt of the waiver request made under  
14 this subsection or the waiver request shall be granted. The  
15 district board may grant the request for a waiver of any  
16 requirement of subsection 2 of this section. The district board  
17 may also reject the request for a waiver in which case the pupil  
18 shall not be allowed to register. Any person aggrieved by a  
19 decision of a district board on a request for a waiver under this  
20 subsection may appeal such decision to the circuit court in the  
21 county where the school district is located.

22 4. Any person who knowingly submits false information to  
23 satisfy any requirement of subsection 2 of this section is guilty  
24 of a class A misdemeanor.

25 5. In addition to any other penalties authorized by law, a

1 district board may file a civil action to recover, from the  
2 parent, military guardian or legal guardian of the pupil, the  
3 costs of school attendance for any pupil who was enrolled at a  
4 school in the district and whose parent, military guardian or  
5 legal guardian filed false information to satisfy any requirement  
6 of subsection 2 of this section.

7 6. Subsection 2 of this section shall not apply to a pupil  
8 who is a homeless child or youth, or a pupil attending a school  
9 not in the pupil's district of residence as a participant in an  
10 interdistrict transfer program established under a court-ordered  
11 desegregation program, a pupil who is a ward of the state and has  
12 been placed in a residential care facility by state officials, a  
13 pupil who has been placed in a residential care facility due to a  
14 mental illness or developmental disability, a pupil attending a  
15 school pursuant to sections 167.121 and 167.151, a pupil placed  
16 in a residential facility by a juvenile court, a pupil with a  
17 disability identified under state eligibility criteria if the  
18 student is in the district for reasons other than accessing the  
19 district's educational program, or a pupil attending a regional  
20 or cooperative alternative education program or an alternative  
21 education program on a contractual basis.

22 7. Within two business days of enrolling a pupil, the  
23 school official enrolling a pupil, including any special  
24 education pupil, shall request those records required by district  
25 policy for student transfer and those discipline records required

1 by subsection 7 of section 160.261, RSMo, from all schools  
2 previously attended by the pupil within the last twelve months.  
3 Any school district that receives a request for such records from  
4 another school district enrolling a pupil that had previously  
5 attended a school in such district shall respond to such request  
6 within five business days of receiving the request. School  
7 districts may report or disclose education records to law  
8 enforcement and juvenile justice authorities if the disclosure  
9 concerns law enforcement's or juvenile justice authorities'  
10 ability to effectively serve, prior to adjudication, the student  
11 whose records are released. The officials and authorities to  
12 whom such information is disclosed must comply with applicable  
13 restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

14 168.283. 1. The school district shall ensure that a  
15 criminal background check is conducted on any person employed  
16 after January 1, 2005, authorized to have contact with pupils and  
17 prior to the individual having contact with any pupil. Such  
18 persons include, but are not limited to, administrators,  
19 teachers, aides, paraprofessionals, assistants, secretaries,  
20 custodians, cooks, nurses, and bus drivers.

21 2. In order to facilitate the criminal history background  
22 check on any person employed after January 1, 2005, the applicant  
23 shall submit two sets of fingerprints collected pursuant to  
24 standards determined by the Missouri highway patrol. One set of  
25 fingerprints shall be used by the highway patrol to search the



1 criminal history repository and the family care safety registry  
2 pursuant to sections 210.900 to 210.936, RSMo, and the second set  
3 shall be forwarded to the Federal Bureau of Investigation for  
4 searching the federal criminal history files.

5 3. The applicant shall pay the fee for the state criminal  
6 history record information pursuant to section 43.530, RSMo, and  
7 sections 210.900 to 210.936, RSMo, and pay the appropriate fee  
8 determined by the Federal Bureau of Investigation for the federal  
9 criminal history record when he or she applies for a position  
10 authorized to have contact with pupils pursuant to this section.  
11 The department shall distribute the fees collected for the state  
12 and federal criminal histories to the Missouri highway patrol.

13 4. The school district may adopt a policy to provide for  
14 reimbursement of expenses incurred by an employee for state and  
15 federal criminal history information pursuant to section 43.530,  
16 RSMo.

17 5. If, as a result of the criminal history background check  
18 mandated by this section, it is determined that the holder of a  
19 certificate issued pursuant to section 168.021 has pled guilty or  
20 nolo contendere to, or been found guilty of a crime or offense  
21 listed in section 168.071, RSMo, or a similar crime or offense  
22 committed in another state, the United States, or any other  
23 country, regardless of imposition of sentence, such information  
24 shall be reported to the department of elementary and secondary  
25 education.

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

4       7. The state board of education may promulgate rules for  
5 criminal history background checks made pursuant to this section.  
6 Any rule or portion of a rule, as that term is defined in section  
7 536.010, RSMo, that is created under the authority delegated in  
8 this section shall become effective only if it complies with and  
9 is subject to all of the provisions of chapter 536, RSMo, and, if  
10 applicable, section 536.028, RSMo. This section and chapter 536,  
11 RSMo, are nonseverable and if any of the powers vested with the  
12 general assembly pursuant to chapter 536, RSMo, to review, to  
13 delay the effective date, or to disapprove and annul a rule are  
14 subsequently held unconstitutional, then the grant of rulemaking  
15 authority and any rule proposed or adopted after August 28, 2004,  
16 shall be invalid and void.

17       8. The provisions of this section shall become effective  
18 January 1, 2005.

19       191.748. Every hospital and any health care facility  
20 licensed in this state that provides obstetrical services shall  
21 require all new mothers to view a video on the dangers of shaking  
22 a baby and shaken baby syndrome before their discharge from the  
23 facility. Such video shall be approved by the department of  
24 health and senior services and shall not exceed ten minutes in  
25 length.

1           207.050. In every county there [~~shall~~] may be established a  
2 county family services commission to consist of four persons, two  
3 from each of the two major political parties, to be selected by  
4 the director of social services from a list submitted to the  
5 director of the department of social services by the county  
6 commission, consisting of double the number of appointments to be  
7 made. Each member of the county family services commission shall  
8 serve for a term of four years. Vacancies shall be filled in the  
9 same way in which the original appointment was made. [If the  
10 county commission fails or refuses to submit a list to the  
11 director of social services as required by this section for the  
12 appointment of members of the county family services commission  
13 within ten days after such appointments are to be made the  
14 director of social services shall make such appointments as may  
15 be necessary from a list prepared by the director of social  
16 services.] The duties of the county family services commission  
17 shall be advisory in nature with the power to examine the records  
18 of any case pending within their county and to make  
19 recommendations thereon. They shall serve without compensation,  
20 but shall be paid their traveling expenses and other necessary  
21 expense in the performance of their duty. No elective officer  
22 shall be appointed as a member of the county family services  
23 commission, and upon becoming a candidate for any elective  
24 office, such member of the county family services commission  
25 shall forthwith forfeit his or her position on the commission.

1 Duties imposed by this law upon the several county commissions  
2 shall be performed in the city of St. Louis by the board of  
3 estimate and apportionment.

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

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

25 3. Other employees in the county offices shall be employed

1 with due regard to the population of the county, existing  
2 conditions and purpose to be accomplished. Such employees shall  
3 be paid as are other employees of the [division of family  
4 services] family support division and children's division.

5 207.085. 1. Any employee of the children's division,  
6 including supervisory personnel and private contractors with the  
7 division, who is involved with child protective services and  
8 purposely, knowingly, and willfully violates a stated or written  
9 policy of the division, any rule promulgated by the division, or  
10 any state law directly related to the child abuse and neglect  
11 activities of the division shall be dismissed if the violation  
12 directly results in serious physical injury or death, subject to  
13 the provisions of subsection 2 of this section. The provisions  
14 of this section shall apply to merit system employees of the  
15 division, as well as all other employees of the division and  
16 private contractors with the division, and upon a showing of a  
17 violation, such employees shall be dismissed for cause, subject  
18 to the provisions of subsection 2 of this section, and shall have  
19 the right of appeal pursuant to section 36.380, RSMo. For  
20 purposes of this section, a "private contractor with the  
21 division" means any private entity or community action agency  
22 with the appropriate and relevant training and expertise in  
23 delivering services to children and their families as determined  
24 by the children's division, and capable of providing direct  
25 services and other family services for children in the custody of

1 the children's division or any such entities or agencies that are  
2 receiving state moneys for such services.

3 2. The provisions of sections 660.019 to 660.021, RSMo,  
4 shall apply to this section. If an employee of the division or a  
5 private contractor with the division is responsible for  
6 assignments in excess of specified caseload standards established  
7 in section 660.020, RSMo, and the employee purposely, knowingly,  
8 and willfully violates a stated or written policy of the  
9 division, any rule promulgated by the division, or any state law  
10 directly related to the child abuse and neglect activities of the  
11 division and the violation directly results in serious physical  
12 injury or death, the employee's good faith efforts to follow the  
13 stated or written policies of the division, the rules promulgated  
14 by the division, or the state laws directly related to the child  
15 abuse and neglect activities of the division shall be a  
16 mitigating factor in determining whether an employee of the  
17 division or a private contractor with the division is dismissed  
18 pursuant to subsection 1 of this section.

19 208.152. 1. Benefit payments for medical assistance shall  
20 be made on behalf of those eligible needy persons who are unable  
21 to provide for it in whole or in part, with any payments to be  
22 made on the basis of the reasonable cost of the care or  
23 reasonable charge for the services as defined and determined by  
24 the division of medical services, unless otherwise hereinafter  
25 provided, for the following:

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

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

24           (3) Laboratory and X-ray services;

25           (4) Nursing home services for recipients, except to persons

1 in an institution for mental diseases who are under the age of  
2 sixty-five years, when residing in a hospital licensed by the  
3 department of health and senior services or a nursing home  
4 licensed by the division of aging or appropriate licensing  
5 authority of other states or government-owned and -operated  
6 institutions which are determined to conform to standards  
7 equivalent to licensing requirements in Title XIX, of the federal  
8 Social Security Act (42 U.S.C. 301, et seq.), as amended, for  
9 nursing facilities. The division of medical services may  
10 recognize through its payment methodology for nursing facilities  
11 those nursing facilities which serve a high volume of Medicaid  
12 patients. The division of medical services when determining the  
13 amount of the benefit payments to be made on behalf of persons  
14 under the age of twenty-one in a nursing facility may consider  
15 nursing facilities furnishing care to persons under the age of  
16 twenty-one as a classification separate from other nursing  
17 facilities;

18 (5) Nursing home costs for recipients of benefit payments  
19 under subdivision (4) of this section for those days, which shall  
20 not exceed twelve per any period of six consecutive months,  
21 during which the recipient is on a temporary leave of absence  
22 from the hospital or nursing home, provided that no such  
23 recipient shall be allowed a temporary leave of absence unless it  
24 is specifically provided for in his plan of care. As used in  
25 this subdivision, the term "temporary leave of absence" shall



1 include all periods of time during which a recipient is away from  
2 the hospital or nursing home overnight because he is visiting a  
3 friend or relative;

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

6 (7) Dental services;

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

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

11 (10) Emergency ambulance services and, effective January 1,  
12 1990, medically necessary transportation to scheduled,  
13 physician-prescribed nonelective treatments. The department of  
14 social services may conduct demonstration projects related to the  
15 provision of medically necessary transportation to recipients of  
16 medical assistance under this chapter. Such demonstration  
17 projects shall be funded only by appropriations made for the  
18 purpose of such demonstration projects. If funds are  
19 appropriated for such demonstration projects, the department  
20 shall submit to the general assembly a report on the significant  
21 aspects and results of such demonstration projects;

22 (11) Early and periodic screening and diagnosis of  
23 individuals who are under the age of twenty-one to ascertain  
24 their physical or mental defects, and health care, treatment, and  
25 other measures to correct or ameliorate defects and chronic

1 conditions discovered thereby. Such services shall be provided  
2 in accordance with the provisions of section 6403 of P.L.53  
3 101-239 and federal regulations promulgated thereunder;

4 (12) Home health care services;

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

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

13 (15) Orthopedic devices or other prosthetics, including eye  
14 glasses, dentures, hearing aids, and wheelchairs;

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

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

1 Law 89-97, 1965 amendments to the federal Social Security Act, as  
2 amended;

3 (18) Personal care services which are medically oriented  
4 tasks having to do with a person's physical requirements, as  
5 opposed to housekeeping requirements, which enable a person to be  
6 treated by his physician on an outpatient, rather than on an  
7 inpatient or residential basis in a hospital, intermediate care  
8 facility, or skilled nursing facility. Personal care services  
9 shall be rendered by an individual not a member of the  
10 recipient's family who is qualified to provide such services  
11 where the services are prescribed by a physician in accordance  
12 with a plan of treatment and are supervised by a licensed nurse.  
13 Persons eligible to receive personal care services shall be those  
14 persons who would otherwise require placement in a hospital,  
15 intermediate care facility, or skilled nursing facility.  
16 Benefits payable for personal care services shall not exceed for  
17 any one recipient one hundred percent of the average statewide  
18 charge for care and treatment in an intermediate care facility  
19 for a comparable period of time;

20 (19) Mental health services. The state plan for providing  
21 medical assistance under Title XIX of the Social Security Act, 42  
22 U.S.C. 301, as amended, shall include the following mental health  
23 services when such services are provided by community mental  
24 health facilities operated by the department of mental health or  
25 designated by the department of mental health as a community

1     mental health facility or as an alcohol and drug abuse facility  
2     or as a child-serving agency within the comprehensive children's  
3     mental health service system established in section 630.097,  
4     RSMo. The department of mental health shall establish by  
5     administrative rule the definition and criteria for designation  
6     as a community mental health facility and for designation as an  
7     alcohol and drug abuse facility. Such mental health services  
8     shall include:

9             (a) Outpatient mental health services including preventive,  
10     diagnostic, therapeutic, rehabilitative, and palliative  
11     interventions rendered to individuals in an individual or group  
12     setting by a mental health professional in accordance with a plan  
13     of treatment appropriately established, implemented, monitored,  
14     and revised under the auspices of a therapeutic team as a part of  
15     client services management;

16            (b) Clinic mental health services including preventive,  
17     diagnostic, therapeutic, rehabilitative, and palliative  
18     interventions rendered to individuals in an individual or group  
19     setting by a mental health professional in accordance with a plan  
20     of treatment appropriately established, implemented, monitored,  
21     and revised under the auspices of a therapeutic team as a part of  
22     client services management;

23            (c) Rehabilitative mental health and alcohol and drug abuse  
24     services including home and community-based preventive,  
25     diagnostic, therapeutic, rehabilitative, and palliative

1 interventions rendered to individuals in an individual or group  
2 setting by a mental health or alcohol and drug abuse professional  
3 in accordance with a plan of treatment appropriately established,  
4 implemented, monitored, and revised under the auspices of a  
5 therapeutic team as a part of client services management. As  
6 used in this section, "mental health professional" and "alcohol  
7 and drug abuse professional" shall be defined by the department  
8 of mental health pursuant to duly promulgated rules. With  
9 respect to services established by this subdivision, the  
10 department of social services, division of medical services,  
11 shall enter into an agreement with the department of mental  
12 health. Matching funds for outpatient mental health services,  
13 clinic mental health services, and rehabilitation services for  
14 mental health and alcohol and drug abuse shall be certified by  
15 the department of mental health to the division of medical  
16 services. The agreement shall establish a mechanism for the  
17 joint implementation of the provisions of this subdivision. In  
18 addition, the agreement shall establish a mechanism by which  
19 rates for services may be jointly developed;

20 (20) Comprehensive day rehabilitation services beginning  
21 early posttrauma as part of a coordinated system of care for  
22 individuals with disabling impairments. Rehabilitation services  
23 must be based on an individualized, goal-oriented, comprehensive  
24 and coordinated treatment plan developed, implemented, and  
25 monitored through an interdisciplinary assessment designed to

1 restore an individual to optimal level of physical, cognitive and  
2 behavioral function. The division of medical services shall  
3 establish by administrative rule the definition and criteria for  
4 designation of a comprehensive day rehabilitation service  
5 facility, benefit limitations and payment mechanism;

6 (21) Hospice care. As used in this subsection, the term  
7 "hospice care" means a coordinated program of active professional  
8 medical attention within a home, outpatient and inpatient care  
9 which treats the terminally ill patient and family as a unit,  
10 employing a medically directed interdisciplinary team. The  
11 program provides relief of severe pain or other physical symptoms  
12 and supportive care to meet the special needs arising out of  
13 physical, psychological, spiritual, social and economic stresses  
14 which are experienced during the final stages of illness, and  
15 during dying and bereavement and meets the Medicare requirements  
16 for participation as a hospice as are provided in 42 CFR Part  
17 418. Beginning July 1, 1990, the rate of reimbursement paid by  
18 the division of medical services to the hospice provider for room  
19 and board furnished by a nursing home to an eligible hospice  
20 patient shall not be less than ninety-five percent of the rate of  
21 reimbursement which would have been paid for facility services in  
22 that nursing home facility for that patient, in accordance with  
23 subsection (c) of section 6408 of P.L. 101-239 (Omnibus Budget  
24 Reconciliation Act of 1989);

25 (22) Such additional services as defined by the division of

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

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

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

25 (25) Nursing home costs for recipients of benefit payments

1 under subdivision (4) of this subsection to reserve a bed for the  
2 recipient in the nursing home during the time that the recipient  
3 is absent due to admission to a hospital for services which  
4 cannot be performed on an outpatient basis, subject to the  
5 provisions of this subdivision:

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

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

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

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

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

23 (d) The provisions of this subdivision shall not apply  
24 unless the nursing home receives notice from the recipient or the  
25 recipient's responsible party that the recipient intends to



1 return to the nursing home following the hospital stay. If the  
2 nursing home receives such notification and all other provisions  
3 of this subsection have been satisfied, the nursing home shall  
4 provide notice to the recipient or the recipient's responsible  
5 party prior to release of the reserved bed.

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

12 3. The division of medical services may require any  
13 recipient of medical assistance to pay part of the charge or  
14 cost, as defined by rule duly promulgated by the division of  
15 medical services, for dental services, drugs and medicines,  
16 optometric services, eye glasses, dentures, hearing aids, and  
17 other services, to the extent and in the manner authorized by  
18 Title XIX of the federal Social Security Act (42 U.S.C. 1396, et  
19 seq.) and regulations thereunder. When substitution of a generic  
20 drug is permitted by the prescriber according to section 338.056,  
21 RSMo, and a generic drug is substituted for a name brand drug,  
22 the division of medical services may not lower or delete the  
23 requirement to make a co-payment pursuant to regulations of Title  
24 XIX of the federal Social Security Act. A provider of goods or  
25 services described under this section must collect from all

1 recipients the partial payment that may be required by the  
2 division of medical services under authority granted herein, if  
3 the division exercises that authority, to remain eligible as a  
4 provider. Any payments made by recipients under this section  
5 shall be in addition to, and not in lieu of, any payments made by  
6 the state for goods or services described herein.

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

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

18 6. Beginning July 1, 1990, reimbursement for services  
19 rendered in federally funded health centers shall be in  
20 accordance with the provisions of subsection 6402(c) and section  
21 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989)  
22 and federal regulations promulgated thereunder.

23 7. Beginning July 1, 1990, the department of social  
24 services shall provide notification and referral of children  
25 below age five, and pregnant, breast-feeding, or postpartum women

1 who are determined to be eligible for medical assistance under  
2 section 208.151 to the special supplemental food programs for  
3 women, infants and children administered by the department of  
4 health and senior services. Such notification and referral shall  
5 conform to the requirements of section 6406 of P.L. 101-239 and  
6 regulations promulgated thereunder.

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

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

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

22 208.204. 1. The division of medical services may  
23 administer the funds appropriated to the department of social  
24 services or any division of the department for payment of medical  
25 care provided to children in the legal custody of the department

1 of social services or any division of the department.

2 2. Through judicial review or family support team meetings,  
3 the children's division shall determine which cases involve  
4 children in the system due exclusively to a need for mental  
5 health services, and identify the cases where no instance of  
6 abuse, neglect, or abandonment exists.

7 3. Within sixty days of a child being identified pursuant  
8 to subsection 2 of this section, an individualized service plan  
9 shall be developed by the applicable state agencies responsible  
10 for providing or paying for any and all appropriate and necessary  
11 services. The individualized service plan shall specifically  
12 identify which agencies are going to pay for, subject to  
13 appropriations, and provide such services, and such plan shall be  
14 submitted to the court for approval. Services shall be provided  
15 in the least restrictive, most appropriate environment that meets  
16 the needs of the child including home, community-based treatment,  
17 and supports. The child's family shall actively participate in  
18 designing the individualized service plan for the child. The  
19 department of social services shall notify the appropriate judge  
20 of the child and shall submit the individualized service plan  
21 developed for approval by the judge. The child may be returned  
22 by the judge to the custody of the child's family.

23 4. When the children are returned to their family's custody  
24 and become the service responsibility of the department of mental  
25 health, the appropriate moneys to provide for the care of each

1 child in each particular situation shall be billed to the  
2 department of social services by the department of mental health  
3 pursuant to a comprehensive financing plan jointly developed by  
4 the two departments.

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

14 210.025. 1. To qualify for receipt of state or federal  
15 funds for providing child-care services in the home either by  
16 direct payment or through reimbursement to a child-care  
17 beneficiary, an applicant and any person over the age of  
18 [~~eighteen~~] seventeen who is living in the applicant's home shall  
19 be required to submit to a criminal background check pursuant to  
20 section 43.540, RSMo, and a check of the central registry for  
21 child abuse established in section 210.145. Effective January 1,  
22 2001, the requirements of this subsection or subsection 2 of this  
23 section shall be satisfied through registration with the family  
24 care safety registry established in sections 210.900 to 210.936.  
25 Any costs associated with such checks shall be paid by the

1 applicant.

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

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

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

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

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

1           (1) Has had a [probable cause] finding of child abuse or  
2 neglect by probable cause prior to the effective date of this  
3 section or by a preponderance of the evidence after the effective  
4 date of this section pursuant to section 210.145 or section  
5 210.152;

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

8           (3) Has pled guilty or nolo contendere to or been found  
9 guilty of any felony for an offense against the person as defined  
10 by chapter 565, RSMo, or any other offense against the person  
11 involving the endangerment of a child as prescribed by law; of  
12 any misdemeanor or felony for a sexual offense as defined by  
13 chapter 566, RSMo; of any misdemeanor or felony for an offense  
14 against the family as defined in chapter 568, RSMo, with the  
15 exception of the sale of fireworks, as defined in section  
16 320.110, RSMo, to a child under the age of eighteen; of any  
17 misdemeanor or felony for pornography or related offense as  
18 defined by chapter 573, RSMo; or of any similar crime in any  
19 federal, state, municipal or other court of similar jurisdiction  
20 of which the director has knowledge or any offenses or reports  
21 which will disqualify an applicant from receiving state or  
22 federal funds.

23           4. An applicant shall be given an opportunity by the  
24 division to offer any extenuating or mitigating circumstances  
25 regarding the findings, refusals or violations against such

1 applicant or any person over the age of [eighteen] seventeen who  
2 is living in the applicant's home listed in subsection 2 of this  
3 section. Such extenuating and mitigating circumstances may be  
4 considered by the division in its determination of whether to  
5 permit such applicant to receive state or federal funds for  
6 providing child care in the home.

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

11 6. If an applicant is denied state or federal funds for  
12 providing child care in the home based on the background check  
13 results for any person over the age of [eighteen] seventeen who  
14 is living in the applicant's home, the applicant shall not apply  
15 for such funds until such person is no longer living in the  
16 applicant's home.

17 7. Any rule or portion of a rule, as that term is defined  
18 in section 536.010, RSMo, that is created under the authority  
19 delegated in this section shall become effective only if it  
20 complies with and is subject to all of the provisions of chapter  
21 536, RSMo, and, if applicable, section 536.028, RSMo. All  
22 rulemaking authority delegated prior to August 28, 1999, is of no  
23 force and effect and repealed. Nothing in this section shall be  
24 interpreted to repeal or affect the validity of any rule filed or  
25 adopted prior to August 28, 1999, if it fully complied with all



1 applicable provisions of law. This section and chapter 536,  
2 RSMo, are nonseverable and if any of the powers vested with the  
3 general assembly pursuant to chapter 536, RSMo, to review, to  
4 delay the effective date or to disapprove and annul a rule are  
5 subsequently held unconstitutional, then the grant of rulemaking  
6 authority and any rule proposed or adopted after August 28, 1999,  
7 shall be invalid and void.

8 210.109. 1. The children's division [of family services]  
9 shall establish a child protection system for the entire state.

10 2. The child protection system shall [seek to] promote the  
11 safety of children and the integrity and preservation of their  
12 families by conducting investigations or family assessments and  
13 providing services in response to reports of child abuse or  
14 neglect. The system shall [endeavor to] coordinate community  
15 resources and provide assistance or services to children and  
16 families identified to be at risk, and to prevent and remedy  
17 child abuse and neglect.

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

20 (1) Maintain a central registry;

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

24 (3) Attempt to obtain the name and address of any person  
25 making a report in all cases, after obtaining relevant

1 information regarding the alleged abuse or neglect, although  
2 reports may be made anonymously; except that, mandatory reporters  
3 under section 210.115, including employees of the children's  
4 division and juvenile officers, but not school personnel, shall  
5 not be made anonymously. School personnel who are mandatory  
6 reporters pursuant to section 210.115 shall only be required to  
7 disclose their classification as a mandatory reporter;

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

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

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

22 (7) Maintain a record which contains the facts ascertained  
23 which support the determination as well as the facts that do not  
24 support the determination;

25 (8) Whenever available and appropriate, contract for the

1 provision of children's services through children's services  
2 providers and agencies in the community; except that the state  
3 shall be the sole provider of child abuse and neglect hotline  
4 services, the initial child abuse and neglect investigation, and  
5 the initial family assessment. In all court proceedings  
6 involving children in the custody of the division, the division  
7 may be represented in court by either division personnel or  
8 persons with whom the division contracts with for such  
9 representation. All children's services providers and agencies  
10 shall be subject to criminal background checks pursuant to  
11 chapter 43, RSMo, and shall submit names of all employees to the  
12 family care safety registry.

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

15 [4. By January 1, 1998, the division of family services  
16 shall submit documentation to the speaker of the house of  
17 representatives and the president pro tem of the senate on the  
18 success or failure of the child protection system established in  
19 this section. The general assembly may recommend statewide  
20 implementation or cancellation of the child protection system  
21 based on the success or failure of the system established in this  
22 section.

23 5. The documentation required by subsection 4 of this  
24 section shall include an independent evaluation of the child

1 protection system completed according to accepted, objective  
2 research principles.]

3 210.110. As used in sections 210.109 to 210.165, and  
4 sections 210.180 to 210.183, the following terms mean:

5 (1) "Abuse", any physical injury, sexual abuse, or  
6 emotional abuse inflicted on a child other than by accidental  
7 means by those responsible for the child's care, custody, and  
8 control, except that discipline including spanking, administered  
9 in a reasonable manner, shall not be construed to be abuse;

10 (2) "Central registry", a registry of persons where the  
11 division has found probable cause to believe prior to the  
12 effective date of this section or by a preponderance of the  
13 evidence after the effective date of this section or a court has  
14 substantiated through court adjudication that the individual has  
15 committed child abuse or neglect or the person has pled guilty or  
16 has been found guilty of a crime pursuant to section 565.020,  
17 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a  
18 child less than eighteen years of age, section 566.030 or  
19 566.060, RSMo, if the victim is a child less than eighteen years  
20 of age, or other crime pursuant to chapter 566, RSMo, if the  
21 victim is a child less than eighteen years of age and the  
22 perpetrator is twenty-one years of age or older, section 567.050,  
23 RSMo, if the victim is a child less than eighteen years of age,  
24 section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or  
25 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to

1     commit any such crimes. Any persons placed on the registry prior  
2     to the effective date of this section, shall remain on the  
3     registry for the duration of time required by section 210.152;

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

6             (4) "Children's services providers and agencies", any  
7     public or private entity or community action agency with the  
8     appropriate and relevant training and expertise in delivering  
9     services to children and their families as determined by the  
10    children's division, and capable of providing direct services and  
11    other family services for children in the custody of the  
12    children's division or any such entities or agencies that are  
13    receiving state moneys for such services;

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

16            [(5)] (6) "Division", the Missouri children's division [of  
17    family] within the department of social services;

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

20            [(6)] (8) "Family assessment and services", an approach to  
21    be developed by the children's division [of family services]  
22    which will provide for a prompt assessment of a child who has  
23    been reported to the division as a victim of abuse or neglect by  
24    a person responsible for that child's care, custody or control  
25    and of that child's family, including risk of abuse and neglect

1 and, if necessary, the provision of community-based services to  
2 reduce the risk and support the family;

3 [(7)] (9) "Investigation", the collection of physical and  
4 verbal evidence to determine if a child has been abused or  
5 neglected;

6 [(8)] (10) "Jail or detention center personnel", employees  
7 and volunteers working in any premises or institution where  
8 incarceration, evaluation, care, treatment or rehabilitation is  
9 provided to persons who are being held under custody of the law;

10 [(9)] (11) "Neglect", failure to provide, by those  
11 responsible for the care, custody, and control of the child, the  
12 proper or necessary support, education as required by law,  
13 nutrition or medical, surgical, or any other care necessary for  
14 the child's well-being;

15 [(10)] (12) "Probable cause", available facts when viewed  
16 in the light of surrounding circumstances which would cause a  
17 reasonable person to believe a child was abused or neglected;

18 [(11)] (13) "Preponderance of the evidence", that degree of  
19 evidence that is of greater weight or more convincing than the  
20 evidence which is offered in opposition to it or evidence which  
21 as a whole shows the fact to be proved to be more probable than  
22 not;

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

25 [(12)] (15) "Those responsible for the care, custody, and

1 control of the child", those included but not limited to the  
2 parents or guardian of a child, other members of the child's  
3 household, or those exercising supervision over a child for any  
4 part of a twenty-four-hour day. Those responsible for the care,  
5 custody and control shall also include any adult who, based on  
6 relationship to the parents of the child, members of the child's  
7 household or the family, has access to the child.

8 210.111. By January 1, 2005, the children's division shall  
9 identify all children in the custody of the division currently  
10 receiving foster care services and shall report to the general  
11 assembly the type of foster care being provided, including but  
12 not limited to care provided in a licensed foster care home,  
13 institutional setting, residential setting, independent living  
14 setting, or kinship care setting, and the status of all such  
15 children. Nothing in this section shall be construed as  
16 requiring the division to disclose the identity or precise  
17 location of any child in the custody of the division.

18 210.112. 1. It is the policy of this state and its  
19 agencies to implement a foster care and child protection and  
20 welfare system focused on providing the highest quality of  
21 services and outcomes for children and their families. The  
22 department of social services shall implement such system subject  
23 to the following principles:

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

25 (2) Services shall be provided on a competitive basis where

1 public and private providers of direct services to children and  
2 their families will be evaluated in a uniform and consistent  
3 basis;

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

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

10 2. On or before July 1, 2005, and subject to  
11 appropriations, the children's division, the courts, and any  
12 other state agency deemed necessary by the division and the  
13 courts shall, in consultation with the community and providers of  
14 services, enter into and implement contracts with qualified  
15 children's services providers and agencies to provide a  
16 comprehensive and deliberate system of service delivery for all  
17 children and their families. In implementing the contracts,  
18 direct services for children and their families currently  
19 provided by the children's division, except for services related  
20 to the child abuse and neglect hotline, investigations of alleged  
21 child abuse and neglect, and initial family assessments, shall be  
22 contracted for by a competitive bid process and provided by  
23 children's services providers and agencies currently contracting  
24 with the state to provide such services and by public and private  
25 not-for-profit or limited liability corporations owned



1 exclusively by not-for-profit corporations children's services  
2 providers and agencies which have:

3 (1) A proven record of providing child welfare services  
4 within the state of Missouri; and

5 (2) The ability to provide a range of child welfare  
6 services, which may include case management services, family-  
7 centered services, foster and adoptive parent recruitment and  
8 retention, residential care, mentoring, intensive in-home  
9 services, foster care services, adoption services, relative care  
10 case management, independent living services, and family  
11 reunification services.

12 Any contracts entered into by the division shall be in accordance  
13 with all federal laws and regulations, and shall not result in  
14 the loss of federal funding. Such children's services providers  
15 and agencies under contract with the division shall be subject to  
16 all federal, state, and local laws and regulations relating to  
17 the provision of such services.

18 3. In entering into and implementing contracts under  
19 subsection 2 of this section, the division and courts shall  
20 consider and direct their efforts towards geographic areas of the  
21 state, including Greene County, where eligible direct children's  
22 services providers and agencies are currently available and  
23 capable of providing a broad range of services, including case  
24 management services, family-centered services, foster and

1 adoptive parent recruitment and retention, residential care,  
2 family preservation services, foster care services, adoption  
3 services, relative care case management, other planned living  
4 arrangements, and family reunification services. Nothing in this  
5 subsection shall prohibit the division from contracting on an as-  
6 needed basis for any individual child welfare service listed  
7 above.

8 4. The contracts entered into under this section shall  
9 provide the following criteria:

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

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

17 (3) Any case management services provided shall be subject  
18 to a case management plan established under subsection 5 of this  
19 section which is consistent with all relevant federal guidelines.  
20 The case management plan shall focus on attaining permanency in  
21 children's living conditions to the greatest extent possible and  
22 shall include concurrent planning and independent living where  
23 appropriate in accordance with the best interests of each child  
24 served and considering relevant factors applicable to each  
25 individual case as provided by law, including:

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

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

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

10       (d) The needs of the child for a continuing relationship  
11 with the child's biological or adoptive parents and the ability  
12 and willingness of the child's biological or adoptive parents to  
13 actively perform their functions as parents with regard to the  
14 needs of the child;

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

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

21       (6) The delivery system shall provide a mechanism for the  
22 assessment of strategies to work with children and families  
23 immediately upon entry into the system to maximize permanency and  
24 successful outcome in the shortest time possible and shall  
25 include concurrent planning. Outcome measures for private and

1 public agencies shall be equal for each program; and

2 (7) Payment to the children's services providers and  
3 agencies shall be made in reasonable amounts based on the costs  
4 of services and responsibilities necessary to execute the  
5 contract. Contracts may provide financial incentives in addition  
6 to the costs of services provided in recognition of  
7 accomplishment of the case goals and the corresponding cost  
8 savings to the state. The division shall promulgate rules to  
9 implement the provisions of this subdivision. This subdivision  
10 shall only apply to contracts for family-centered services,  
11 family preservation, and case management services.

12 5. Contracts entered into under this section shall require  
13 that a case management plan consistent with all relevant federal  
14 guidelines shall be developed for each child at the earliest time  
15 after the initial investigation, but in no event longer than  
16 fourteen days after the initial investigation or referral to the  
17 contractor by the division. Such case management plan shall be  
18 presented to the court and be the foundation of service delivery  
19 to the child and family. The case management plan shall, at a  
20 minimum, include:

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

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

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

2       (4) Necessary evaluations and reporting.

3       In addition to any visits and assessments required under case  
4       management, services to be provided by a public or private  
5       children's services provider under the specific case management  
6       plan may include family-centered services, foster and adoptive  
7       parent recruitment and retention, residential care, mentoring,  
8       intensive in-home services, foster care services, adoption  
9       services, relative care case services, independent living  
10       services, and family reunification services. In all cases, an  
11       appropriate level of services shall be provided to the child and  
12       family after permanency is achieved to assure a continued  
13       successful outcome.

14       6. On or before July 15, 2006, and each July fifteenth  
15       thereafter that the project is in operation, the division, in  
16       collaboration with the courts, shall submit a report to the  
17       general assembly which shall include:

18       (1) Details about the specifics of the contracts, including  
19       the number of children and families served, the cost to the state  
20       for contracting such services, the current status of the children  
21       and families served, an assessment of the quality of services  
22       provided and outcomes achieved, and an overall evaluation of the  
23       project; and

24       (2) Any recommendations regarding the continuation or

1 possible statewide implementation of such project; and

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

6 7. By February 1, 2005, the children's division shall  
7 promulgate and have in effect rules to implement the provisions  
8 of this section, and pursuant to this section, shall define  
9 implementation plans and dates. Any rule or portion of a rule,  
10 as that term is defined in section 536.010, RSMo, that is created  
11 under the authority delegated in this section shall become  
12 effective only if it complies with and is subject to all of the  
13 provisions of chapter 536, RSMo, and, if applicable, section  
14 536.028, RSMo. This section and chapter 536, RSMo, are  
15 nonseverable and if any of the powers vested with the general  
16 assembly pursuant to chapter 536, RSMo, to review, to delay the  
17 effective date, or to disapprove and annul a rule are  
18 subsequently held unconstitutional, then the grant of rulemaking  
19 authority and any rule proposed or adopted after August 28, 2004,  
20 shall be invalid and void.

21 210.113. It is the intent and goal of the general assembly  
22 to have the department attain accreditation by the Council for  
23 Accreditation for Families and Children's Services within five  
24 years of the effective date of this section.

25 210.117. No child taken into the custody of the state shall

1 be reunited with a parent or placed in a home in which the parent  
2 or any person residing in the home has been found guilty of, or  
3 pled guilty to, a felony violation of chapter 566, RSMo, except  
4 for section 566.034, RSMo, when a child was the victim, or a  
5 violation of chapter 568, RSMo, except for section 568.040, RSMo,  
6 when a child was the victim, or an offense committed in another  
7 state when a child is the victim, that would be a felony  
8 violation of chapter 566, RSMo, except for section 566.034, RSMo,  
9 or chapter 568, RSMo, except for section 568.040, RSMo, if  
10 committed in Missouri.

11 210.127. 1. If the location or identity of the natural  
12 parent or parents of a child in the custody of the division is  
13 unknown, the children's division shall utilize all reasonable and  
14 effective means available to conduct a diligent search for the  
15 biological or adoptive parent or parents of such child.

16 2. For purposes of this section, "diligent search" means  
17 the efforts of the division, or an entity under contract with the  
18 division, to locate a biological parent whose identity or  
19 location is unknown, initiated as soon as the division is made  
20 aware of the existence of such parent, with the search progress  
21 reported at each court hearing until the parent is either  
22 identified and located or the court excuses further search.

23 210.145. 1. The division shall [establish and maintain]  
24 develop protocols which give priority to:

25 (1) Ensuring the well-being and safety of the child in

1 instances where child abuse or neglect has been alleged;

2 (2) Promoting the preservation and reunification of  
3 children and families;

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

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

12 2. The division shall utilize structured decision-making  
13 protocols for classification purposes of all child abuse and  
14 neglect reports. The protocols developed by the division shall  
15 give priority to ensuring the well-being and safety of the child.  
16 All child abuse and neglect reports shall be initiated within  
17 twenty-four hours and shall be classified based upon the reported  
18 risk and injury to the child. The division shall promulgate  
19 rules regarding the structured decision-making protocols to be  
20 utilized for all child abuse and neglect reports.

21 3. Upon receipt of a report, the division shall determine  
22 if the report merits investigation, including reports which if  
23 true would constitute a suspected violation of any of the  
24 following: section 565.020, 565.021, 565.023, 565.024, or  
25 565.050, RSMo, if the victim is a child less than eighteen years



1 of age, section 566.030 or 566.060, RSMo, if the victim is a  
2 child less than eighteen years of age, or other crimes under  
3 chapter 566, RSMo, if the victim is a child less than eighteen  
4 years of age and the perpetrator is twenty-one years of age or  
5 older, section 567.050, RSMo, if the victim is a child less than  
6 eighteen years of age, section 568.020, 568.030, 568.045,  
7 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025,  
8 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any  
9 such crimes. The division shall immediately communicate [such  
10 report] all reports that merit investigation to its appropriate  
11 local office and any relevant information as may be contained in  
12 the information system. The local division staff shall  
13 determine, through the use of protocols developed by the  
14 division, whether an investigation or the family assessment and  
15 services approach should be used to respond to the allegation.  
16 The protocols developed by the division shall give priority to  
17 ensuring the well-being and safety of the child.

18 [3.] 4. The local office shall contact the appropriate law  
19 enforcement agency immediately upon receipt of a report which  
20 division personnel determine merits an investigation[, or, which,  
21 if true, would constitute a suspected violation of any of the  
22 following: section 565.020, 565.021, 565.023, 565.024 or  
23 565.050, RSMo, if the victim is a child less than eighteen years  
24 of age, section 566.030 or 566.060, RSMo, if the victim is a  
25 child less than eighteen years of age, or other crime under

1 chapter 566, RSMo, if the victim is a child less than eighteen  
2 years of age and the perpetrator is twenty-one years of age or  
3 older, section 567.050, RSMo, if the victim is a child less than  
4 eighteen years of age, section 568.020, 568.030, 568.045,  
5 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025,  
6 573.037 or 573.045, RSMo, or an attempt to commit any such  
7 crimes. The local office shall] and provide such agency with a  
8 detailed description of the report received. In such cases the  
9 local division office shall request the assistance of the local  
10 law enforcement agency in all aspects of the investigation of the  
11 complaint. The appropriate law enforcement agency shall either  
12 assist the division in the investigation or provide the division,  
13 within twenty-four hours, an explanation in writing detailing the  
14 reasons why it is unable to assist.

15 [4.] 5. The local office of the division shall cause an  
16 investigation or family assessment and services approach to be  
17 initiated [immediately or no later than within twenty-four hours  
18 of receipt of the report from the division] in accordance with  
19 the protocols established in subsection 2 of this section, except  
20 in cases where the sole basis for the report is educational  
21 neglect. If the report indicates that educational neglect is the  
22 only complaint and there is no suspicion of other neglect or  
23 abuse, the investigation shall be initiated within seventy-two  
24 hours of receipt of the report. If the report indicates the  
25 child is in danger of serious physical harm or threat to life, an

1 investigation shall include direct observation of the subject  
2 child within twenty-four hours of the receipt of the report.  
3 Local law enforcement shall take all necessary steps to  
4 facilitate such direct observation. If the parents of the child  
5 are not the alleged abusers, a parent of the child must be  
6 notified prior to the child being interviewed by the division.  
7 If the abuse is alleged to have occurred in a school or child-  
8 care facility the division shall not meet with the child [at the  
9 child's school or child-care facility] in the same school  
10 building or child-care facility building where abuse of such  
11 child is alleged to have occurred. When the child is reported  
12 absent from the residence, the location and the well-being of the  
13 child shall be verified. For purposes of this subsection,  
14 "child-care facility" shall have the same meaning as such term is  
15 defined in section 210.201.

16 [5.] 6. The director of the division shall name at least  
17 one chief investigator for each local division office, who shall  
18 direct the division response on any case involving a second or  
19 subsequent incident regarding the same subject child or  
20 perpetrator. The duties of a chief investigator shall include  
21 verification of direct observation of the subject child by the  
22 division and shall ensure information regarding the status of an  
23 investigation is provided to the public school district liaison.  
24 The public school district liaison shall develop protocol in  
25 conjunction with the chief investigator to ensure information

1 regarding an investigation is shared with appropriate school  
2 personnel. The superintendent of each school district shall  
3 designate a specific person or persons to act as the public  
4 school district liaison. Should the subject child attend a  
5 nonpublic school the chief investigator shall notify the school  
6 principal of the investigation. Upon notification of an  
7 investigation, all information received by the public school  
8 district liaison or the school shall be subject to the provisions  
9 of the federal Family Educational Rights and Privacy Act (FERPA),  
10 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

11 [6.] 7. The investigation shall include but not be limited  
12 to the nature, extent, and cause of the abuse or neglect; the  
13 identity and age of the person responsible for the abuse or  
14 neglect; the names and conditions of other children in the home,  
15 if any; the home environment and the relationship of the subject  
16 child to the parents or other persons responsible for the child's  
17 care; any indication of incidents of physical violence against  
18 any other household or family member; and other pertinent data.

19 [7.] 8. When a report has been made by a person required to  
20 report under section 210.115, the division shall contact the  
21 person who made such report within forty-eight hours of the  
22 receipt of the report in order to ensure that full information  
23 has been received and to obtain any additional information or  
24 medical records, or both, that may be pertinent.

25 [8.] 9. Upon completion of the investigation, if the

1 division suspects that the report was made maliciously or for the  
2 purpose of harassment, the division shall refer the report and  
3 any evidence of malice or harassment to the local prosecuting or  
4 circuit attorney.

5 [9.] 10. Multidisciplinary teams shall be used whenever  
6 conducting the investigation as determined by the division in  
7 conjunction with local law enforcement. Multidisciplinary teams  
8 shall be used in providing protective or preventive social  
9 services, including the services of law enforcement, a liaison of  
10 the local public school, the juvenile officer, the juvenile  
11 court, and other agencies, both public and private.

12 11. For all family support team meetings and other team  
13 meetings involving an alleged victim of child abuse or neglect,  
14 the biological or adoptive parents, legal counsel for the  
15 biological or adoptive parents, foster parents, the guardian ad  
16 litem for the child, and the volunteer advocate for the child  
17 shall be provided notice and be permitted to attend all such  
18 meetings. Family members, other than alleged perpetrators, or  
19 other community informal or formal service providers that provide  
20 significant support to the child and family may also be invited  
21 at the discretion of the family. In addition, the biological or  
22 adoptive parents, the legal counsel for the biological or  
23 adoptive parents, and the foster parents may request that other  
24 individuals, other than alleged perpetrators, be permitted to  
25 attend such meetings. Once a person is provided notice of or

1 attends such meetings, the division or the convenor of the  
2 meeting shall provide such persons with notice of all such  
3 subsequent meetings involving the child. Families may determine  
4 whether individuals invited at their discretion shall continue to  
5 be invited.

6 [10.] 12. If the appropriate local division personnel  
7 determine after an investigation has begun that completing an  
8 investigation is not appropriate, the division shall conduct a  
9 family assessment and services approach. The division shall  
10 provide written notification to local law enforcement prior to  
11 terminating any investigative process. The reason for the  
12 termination of the investigative process shall be documented in  
13 the record of the division and the written notification submitted  
14 to local law enforcement. Such notification shall not preclude  
15 nor prevent any investigation by law enforcement.

16 [11.] 13. If the appropriate local division personnel  
17 determines to use a family assessment and services approach, the  
18 division shall:

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

22 (2) Provide services which are voluntary and time-limited  
23 unless it is determined by the division based on the assessment  
24 of risk that there will be a high risk of abuse or neglect if the  
25 family refuses to accept the services. The division shall

1 identify services for families where it is determined that the  
2 child is at high risk of future abuse or neglect. The division  
3 shall thoroughly document in the record its attempt to provide  
4 voluntary services and the reasons these services are important  
5 to reduce the risk of future abuse or neglect to the child. If  
6 the family continues to refuse voluntary services or the child  
7 needs to be protected, the division may commence an  
8 investigation;

9 (3) Commence an immediate investigation if at any time  
10 during the family assessment and services approach the division  
11 determines that an investigation, as delineated in sections  
12 210.109 to 210.183, is required. The division staff who have  
13 conducted the assessment may remain involved in the provision of  
14 services to the child and family;

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

18 [12.] 14. Within thirty days of an oral report of abuse or  
19 neglect, the local office shall update the information in the  
20 information system. The information system shall contain, at a  
21 minimum, the determination made by the division as a result of  
22 the investigation, identifying information on the subjects of the  
23 report, those responsible for the care of the subject child and  
24 other relevant dispositional information. The division shall  
25 complete all investigations within thirty days, unless good cause

1 for the failure to complete the investigation is documented in  
2 the information system. If the investigation is not completed  
3 within thirty days, the information system shall be updated at  
4 regular intervals and upon the completion of the investigation.  
5 The information in the information system shall be updated to  
6 reflect any subsequent findings, including any changes to the  
7 findings based on an administrative or judicial hearing on the  
8 matter.

9 [13.] 15. A person required to report under section 210.115  
10 to the division shall be informed by the division of his or her  
11 right to obtain information concerning the disposition of his or  
12 her report. Such person shall receive, from the local office, if  
13 requested, information on the general disposition of his or her  
14 report. A person required to report to the division pursuant to  
15 section 210.115 may receive, if requested, findings and  
16 information concerning the case. Such release of information  
17 shall be at the discretion of the director based upon a review of  
18 the mandated reporter's ability to assist in protecting the child  
19 or the potential harm to the child or other children within the  
20 family. The local office shall respond to the request within  
21 forty-five days. The findings shall be made available to the  
22 mandated reporter within five days of the outcome of the  
23 investigation.

24 16. In addition to the requirements of subsection 15 of  
25 this section, for any report of child abuse or neglect made to



1 the division which is not made anonymously, the division shall,  
2 within ten days of making a determination, inform the reporter of  
3 whether the division determined the report to be substantiated or  
4 unsubstantiated. If the report is determined to be  
5 unsubstantiated, the reporter may request that the report be  
6 referred by the division to the office of child advocate for  
7 children's protection and services established in sections 37.700  
8 to 37.730, RSMo. Upon request by a reporter under this  
9 subsection, the division shall refer an unsubstantiated report of  
10 child abuse or neglect to the office of child advocate for  
11 children's protection and services.

12 [14.] 17. In any judicial proceeding involving the custody  
13 of a child the fact that a report may have been made pursuant to  
14 sections 210.109 to 210.183 shall not be admissible. However[,];

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

18 (2) The court may on its own motion, or shall if requested  
19 by a party to the proceeding, make an inquiry not on the record  
20 with the children's division to determine if such a report has  
21 been made. If a report has been made, the court may stay the  
22 custody proceeding until the children's division completes its  
23 investigation and determines whether the report is substantiated  
24 or unsubstantiated. If the children's division determines the  
25 report to be unsubstantiated, the court shall resume the custody

1 proceedings and any information or investigative records  
2 regarding such report shall not be admissible. If the children's  
3 division determines the report to be substantiated, the court  
4 shall request the investigative records pursuant to section  
5 210.150 and determine the relevance, if any, and admissibility of  
6 the information contained in the investigative records before  
7 continuing the custody proceeding.

8 [15.] 18. In any judicial proceeding involving the custody  
9 of a child where the court determines that the child is in need  
10 of services pursuant to subdivision (d) of subsection 1 of  
11 section 211.031, RSMo, and has taken jurisdiction, the child's  
12 parent, guardian or custodian shall not be entered into the  
13 registry.

14 [16.] 19. The children's division [of family services] is  
15 hereby granted the authority to promulgate rules and regulations  
16 pursuant to the provisions of section 207.021, RSMo, and chapter  
17 536, RSMo, to carry out the provisions of sections 210.109 to  
18 210.183.

19 [17.] 20. Any rule or portion of a rule, as that term is  
20 defined in section 536.010, RSMo, that is created under the  
21 authority delegated in this section shall become effective only  
22 if it complies with and is subject to all of the provisions of  
23 chapter 536, RSMo, and, if applicable, section 536.028, RSMo.  
24 This section and chapter 536, RSMo, are nonseverable and if any  
25 of the powers vested with the general assembly pursuant to

1 chapter 536, RSMo, to review, to delay the effective date or to  
2 disapprove and annul a rule are subsequently held  
3 unconstitutional, then the grant of rulemaking authority and any  
4 rule proposed or adopted after August 28, 2000, shall be invalid  
5 and void.

6 210.147. 1. Except as otherwise provided by law, all  
7 information provided at any meeting or administrative hearing  
8 held in relation to the removal of a child from the child's home  
9 is confidential; except that:

10 (1) Any parent or party may waive confidentiality for  
11 himself or herself to the extent permitted by law; and

12 (2) Any parent of the child shall have an absolute right to  
13 video and/or audio tape such meetings or hearings to the extent  
14 permitted by law; and

15 (3) No parent or party shall be required to sign a  
16 confidentiality agreement before testifying or providing  
17 information at such meetings or hearings. Any person, other than  
18 a parent or party, who does not agree to maintain confidentiality  
19 of the information provided at such meetings or hearings may be  
20 excluded from all or any portion of such meetings or hearings  
21 during which such person is not testifying or providing  
22 information.

23 2. The division shall be responsible for developing a form  
24 to be signed at the conclusion of any meeting or administrative  
25 hearing held in relation to a child removed from the home and

1 placed in the custody of the state that reflects the core  
2 commitments made by the children's division or the convenor of  
3 the meeting and the parents of the child or any other party.  
4 Beginning on the effective date of this section, the form shall  
5 be used and shall, at a minimum, contain the following  
6 provisions:

7 "CORE COMMITMENTS OF THE MEETING

8 (1) Location of the child (not the specific address):  
9 (Circle One)

10 Remain in Current Placement

New Placement

11 (2) Visitation Schedule for the Child's Family: (Circle  
12 One)

13 Supervised

Unsupervised

14 (3) Actions Required of the Parents of the Child:

15 1.....

16 2.....

17 3.....

18 (4) Additional core commitments (if any):.....

19 .....

20 .....

21 The core commitments stated above have been discussed at the  
22 meeting and are true and accurate statements of the core  
23 commitments agreed to by the parties on this ..... day of  
24 ....., 20....

.....  
Parent 1 or Party 1

.....  
Parent 2 or Party 2

.....  
Division Representative/  
Convenor"

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

1 Such information shall be used only for the purpose for which the  
2 information is released.

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

12 (1) Appropriate federal, state or local criminal justice  
13 agency personnel, or any agent of such entity, with a need for  
14 such information under the law to protect children from abuse or  
15 neglect;

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

19 (3) Appropriate staff of the division and of its local  
20 offices, including interdisciplinary teams which are formed to  
21 assist the division in investigation, evaluation and treatment of  
22 child abuse and neglect cases or a multidisciplinary provider of  
23 professional treatment services for a child referred to the  
24 provider;

25 (4) Any child named in the report as a victim, or a legal

1 representative, or the parent, if not the alleged perpetrator, or  
2 guardian of such person when such person is a minor, or is  
3 mentally ill or otherwise incompetent, but the names of reporters  
4 shall not be furnished to persons in this category. Prior to the  
5 release of any identifying information, the division [of family  
6 services] shall determine if the release of such identifying  
7 information may place a person's life or safety in danger. If  
8 the division makes the determination that a person's life or  
9 safety may be in danger, the identifying information shall not be  
10 released. The division shall provide a method for confirming or  
11 certifying that a designee is acting on behalf of a subject;

12 (5) Any alleged perpetrator named in the report, but the  
13 names of reporters shall not be furnished to persons in this  
14 category. Prior to the release of any identifying information,  
15 the division [of family services] shall determine if the release  
16 of such identifying information may place a person's life or  
17 safety in danger. If the division makes the determination that a  
18 person's life or safety may be in danger, the identifying  
19 information shall not be released. However, the investigation  
20 reports will not be released to any alleged perpetrator with  
21 pending criminal charges arising out of the facts and  
22 circumstances named in the investigation records until an  
23 indictment is returned or an information filed; except that, if  
24 the alleged perpetrator files an appeal with the administrative  
25 hearing commission under section 210.152, the investigative

1     reports shall be released to such alleged perpetrator regardless  
2     of any pending criminal investigation;

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

11          (7) Any person engaged in a bona fide research purpose,  
12    with the permission of the director; provided, however, that no  
13    information identifying the child named in the report as a victim  
14    or the reporters shall be made available to the researcher,  
15    unless the identifying information is essential to the research  
16    or evaluation and the child named in the report as a victim or,  
17    if the child is less than eighteen years of age, through the  
18    child's parent, or guardian provides written permission;

19          (8) Any child-care facility; child-placing agency;  
20    residential-care facility, including group homes; juvenile  
21    courts; public or private elementary schools; public or private  
22    secondary schools; or any other public or private agency  
23    exercising temporary supervision over a child or providing or  
24    having care or custody of a child who may request an examination  
25    of the central registry from the division for all employees and



1 volunteers or prospective employees and volunteers, who do or  
2 will provide services or care to children. Any agency or  
3 business recognized by the division [of family services] or  
4 business which provides training and places or recommends people  
5 for employment or for volunteers in positions where they will  
6 provide services or care to children may request the division to  
7 provide an examination of the central registry. Such agency or  
8 business shall provide verification of its status as a recognized  
9 agency. Requests for examinations shall be made to the division  
10 director or the director's designee in writing by the chief  
11 administrative officer of the above homes, centers, public and  
12 private elementary schools, public and private secondary schools,  
13 agencies, or courts. The division shall respond in writing to  
14 that officer. The response shall include information pertaining  
15 to the nature and disposition of any report or reports of abuse  
16 or neglect revealed by the examination of the central registry.  
17 This response shall not include any identifying information  
18 regarding any person other than the alleged perpetrator of the  
19 abuse or neglect;

20 (9) Any parent or legal guardian who inquires about a child  
21 abuse or neglect report involving a specific person or child-care  
22 facility who does or may provide services or care to a child of  
23 the person requesting the information. Request for examinations  
24 shall be made to the division director or the director's  
25 designee, in writing, by the parent or legal guardian of the

1 child and shall be accompanied with a signed and notarized  
2 release form from the person who does or may provide care or  
3 services to the child. The notarized release form shall include  
4 the full name, date of birth and Social Security number of the  
5 person who does or may provide care or services to a child. The  
6 response shall include information pertaining to the nature and  
7 disposition of any report or reports of abuse or neglect revealed  
8 by the examination of the central registry. This response shall  
9 not include any identifying information regarding any person  
10 other than the alleged perpetrator of the abuse or neglect. The  
11 response shall be given within ten working days of the time it  
12 was received by the division;

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

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

24 (12) Any child fatality review panel established pursuant  
25 to section 210.192 or any state child fatality review panel

1 established pursuant to section 210.195;

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

5 (14) Any person who is a tenure-track or full-time research  
6 faculty member at an accredited institution of higher education  
7 engaged in scholarly research, with the permission of the  
8 director. Prior to the release of any identifying information,  
9 the director shall require the researcher to present a plan for  
10 maintaining the confidentiality of the identifying information.  
11 The researcher shall be prohibited from releasing the identifying  
12 information of individual cases.

13 3. For any person listed in subdivisions (8), (9), (10),  
14 and (11) of subsection 2 of this section that makes an inquiry to  
15 the central registry after an initial report of child abuse or  
16 neglect has been made, the following shall apply:

17 (1) If the division determines that the report is  
18 substantiated and:

19 (a) The alleged perpetrator does not file a timely appeal  
20 of the determination of the division with the child abuse and  
21 neglect review board under section 210.152, such persons have  
22 access to investigative records of the alleged perpetrator  
23 contained in the central registry; or

24 (b) If a timely appeal is filed by the alleged perpetrator  
25 with the child abuse and neglect review board under section

1 210.152, a notation in the central registry shall be made and  
2 such persons requesting information shall be informed that the  
3 division has made an initial substantiation determination which  
4 is on appeal. Such persons shall not have access to  
5 investigative records of the alleged perpetrator contained in the  
6 registry unless the provisions of subdivision (2) of this  
7 subsection apply; and

8 (2) If a substantiated report by the division is appealed  
9 to and upheld by the child abuse and neglect review board under  
10 section 210.152 and the alleged perpetrator has exhausted all  
11 administrative remedies or has failed to timely file for an  
12 administrative appeal under section 210.152, such persons shall  
13 be notified of the substantiated report and have access to  
14 investigative records of the alleged perpetrator contained in the  
15 central registry.

16 [3.] 4. Only the following persons shall have access to  
17 records maintained by the division pursuant to section 210.152  
18 for which the division has received a report of child abuse and  
19 neglect and which the division has determined that there is  
20 insufficient evidence or in which the division proceeded with the  
21 family assessment and services approach:

22 (1) Appropriate staff of the division;

23 (2) Any child named in the report as a victim, or a legal  
24 representative, or the parent or guardian of such person when  
25 such person is a minor, or is mentally ill or otherwise

1 incompetent. The names or other identifying information of  
2 reporters shall not be furnished to persons in this category.  
3 Prior to the release of any identifying information, the division  
4 [of family services] shall determine if the release of such  
5 identifying information may place a person's life or safety in  
6 danger. If the division makes the determination that a person's  
7 life or safety may be in danger, the identifying information  
8 shall not be released. The division shall provide for a method  
9 for confirming or certifying that a designee is acting on behalf  
10 of a subject;

11 (3) Any alleged perpetrator named in the report, but the  
12 names of reporters shall not be furnished to persons in this  
13 category. Prior to the release of any identifying information,  
14 the division [of family services] shall determine if the release  
15 of such identifying information may place a person's life or  
16 safety in danger. If the division makes the determination that a  
17 person's life or safety may be in danger, the identifying  
18 information shall not be released. However, the investigation  
19 reports will not be released to any alleged perpetrator with  
20 pending criminal charges arising out of the facts and  
21 circumstances named in the investigation records until an  
22 indictment is returned or an information filed;

23 (4) Any child fatality review panel established pursuant to  
24 section 210.192 or any state child fatality review panel  
25 established pursuant to section 210.195;

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

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

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

14           (8) The administrative hearing commission for the purpose  
15 of reviewing the division's decision regarding an allegation of  
16 abuse or neglect.

17           [4.] 5. Any person who knowingly violates the provisions of  
18 this section, or who permits or encourages the unauthorized  
19 dissemination of information contained in the information system  
20 or the central registry and in reports and records made pursuant  
21 to sections 210.109 to 210.183, shall be guilty of a class A  
22 misdemeanor.

23           [5.] 6. Nothing in this section shall preclude the release  
24 of findings or information about cases which resulted in a child  
25 fatality or near fatality. Such release is at the sole

1 discretion of the director of the department of social services,  
2 based upon a review of the potential harm to other children  
3 within the immediate family.

4 210.152. 1. All identifying information, including  
5 telephone reports reported pursuant to section 210.145, relating  
6 to reports of abuse or neglect received by the division shall be  
7 retained by the division and removed from the records of the  
8 division as follows:

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

12 (2) For investigation reports initiated by a person  
13 required to report pursuant to section 210.115, where  
14 insufficient evidence of abuse or neglect is found by the  
15 division, identifying information shall be retained for [ten]  
16 five years from the date of the report. For all other  
17 investigation reports where insufficient evidence of abuse or  
18 neglect is found by the division, identifying information shall  
19 be retained for two years from the date of the report. Such  
20 report shall include any exculpatory evidence known by the  
21 division, including exculpatory evidence obtained after the  
22 closing of the case. At the end of such two-year period, the  
23 identifying information shall be removed from the records of the  
24 division and destroyed;

25 (3) For reports where the division uses the family

1 assessment and services approach, identifying information shall  
2 be retained by the division;

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

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

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



1 of this section; or

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

6 3. Any person named in an investigation as a perpetrator  
7 who is aggrieved by a determination of abuse or neglect by the  
8 division as provided in this section may seek an administrative  
9 review by the child abuse and neglect review board pursuant to  
10 the provisions of section 210.153. Such request for review shall  
11 be made within [sixty days of notification of the] thirty days  
12 after the mailing or delivery of the notice of the division's  
13 final decision under this section. [In those cases where  
14 criminal charges arising out of facts of the investigation are  
15 pending, the request for review shall be made within sixty days  
16 from the court's final disposition or dismissal of the charges.]

17 4. In any such action for administrative review, the child  
18 abuse and neglect review board shall sustain the division's  
19 determination if such determination [is] was supported by  
20 evidence of probable cause prior to the effective date of this  
21 section or is supported by a preponderance of the evidence after  
22 the effective date of this section and is not against the weight  
23 of such evidence. The child abuse and neglect review board  
24 hearing shall be closed to all persons except the parties, their  
25 attorneys and those persons providing testimony on behalf of the

1 parties.

2       5. If the alleged perpetrator is aggrieved by the decision  
3 of the child abuse and neglect review board, the alleged  
4 perpetrator may seek administrative review by the administrative  
5 hearing commission. Such request for review shall be made within  
6 thirty days after the mailing or delivery of the notice of the  
7 board's decision under this section. In any such action for  
8 administrative review, the administrative hearing commission  
9 shall sustain the division's determination if the division's  
10 probable cause finding prior to the effective date of this  
11 section or finding by a preponderance of evidence after the  
12 effective date of this section that the alleged perpetrator  
13 abused or neglected a child is supported by the evidence and is  
14 not against the weight of such evidence. The administrative  
15 hearing commission shall provide the alleged perpetrator with an  
16 opportunity to appear and present testimony. The parties may  
17 subpoena any witnesses, except the alleged perpetrator shall not  
18 subpoena the alleged victim or the reporter. The provisions of  
19 chapter 536, RSMo, and all state laws and evidentiary rules in  
20 court proceedings involving child victims shall apply to all  
21 proceedings held by the administrative hearing commission under  
22 this section.

23       6. If the alleged perpetrator or the division is aggrieved  
24 by the decision of the [child abuse and neglect review board]  
25 administrative hearing commission, the alleged perpetrator or the

1 division may seek [de novo] judicial review in the circuit court  
2 in the county in which the alleged perpetrator resides and in  
3 circuits with split venue, in the venue in which the alleged  
4 perpetrator resides, or in Cole County. If the alleged  
5 perpetrator is not a resident of the state, proper venue shall be  
6 in Cole County. The case may be assigned to the family court  
7 division where such a division has been established. The request  
8 for a judicial review shall be made within [sixty days of  
9 notification of the] thirty days after the mailing or delivery of  
10 the notice of the final decision of the [child abuse and neglect  
11 review board decision. In reviewing such decisions, the circuit  
12 court shall provide the alleged perpetrator the opportunity to  
13 appear and present testimony. The alleged perpetrator may  
14 subpoena any witnesses except the alleged victim or the reporter.  
15 However, the circuit court shall have the discretion to allow the  
16 parties to submit the case upon a stipulated record]  
17 administrative hearing commission. The provisions of sections  
18 536.100 to 536.140 shall apply to any judicial review sought  
19 under this section.

20 [6.] 7. In any [such] action for administrative review, the  
21 child abuse and neglect review board and the administrative  
22 hearing commission shall notify the child or the parent, guardian  
23 or legal representative of the child that a review has been  
24 requested.

25 8. The children's division or the director of the

1 department of social services may, at any time, dismiss a case  
2 and withdraw it from review by the child abuse and neglect review  
3 board or the administrative hearing commission.

4 9. The administrative hearing commission shall promulgate  
5 rules governing the administrative hearings on appeal from the  
6 child abuse and neglect review board. Any rule or portion of a  
7 rule, as that term is defined in section 536.010, RSMo, that is  
8 created under the authority delegated in this section shall  
9 become effective only if it complies with and is subject to all  
10 of the provisions of chapter 536, RSMo, and, if applicable,  
11 section 536.028, RSMo. This section and chapter 536, RSMo, are  
12 nonseverable and if any of the powers vested with the general  
13 assembly pursuant to chapter 536, RSMo, to review, to delay the  
14 effective date, or to disapprove and annul a rule are  
15 subsequently held unconstitutional, then the grant of rulemaking  
16 authority and any rule proposed or adopted after the effective  
17 date of this section shall be invalid and void.

18 210.153. 1. There is hereby created in the department of  
19 social services the "Child Abuse and Neglect Review Board", which  
20 shall provide an independent review of child abuse and neglect  
21 determinations in instances in which the alleged perpetrator is  
22 aggrieved by the decision of the children's division [of family  
23 services]. The division may establish more than one board to  
24 assure timely review of the determination.

25 2. The board shall consist of nine members, who shall be

1 appointed by the governor with the advice and consent of the  
2 senate, and shall include:

3 (1) A physician, nurse or other medical professional;

4 (2) A licensed child or family psychologist, counselor or  
5 social worker;

6 (3) An attorney who has acted as a guardian ad litem or  
7 other attorney who has represented a subject of a child abuse and  
8 neglect report;

9 (4) A representative from law enforcement or a juvenile  
10 office.

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

12 (1) A person from another profession or field who has an  
13 interest in child abuse or neglect;

14 (2) A college or university professor or elementary or  
15 secondary teacher;

16 (3) A child advocate;

17 (4) A parent, foster parent or grandparent.

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

20 (1) Appropriate children's division [of family services]  
21 staff and legal counsel for the department;

22 (2) The alleged perpetrator, who may be represented pro se  
23 or be represented by legal counsel. The alleged perpetrator's  
24 presence is not required for the review to be conducted. The  
25 alleged perpetrator may submit a written statement for the

1 board's consideration in lieu of personal appearance; and

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

6 5. The members of the board shall serve without  
7 compensation, but shall receive reimbursement for reasonable and  
8 necessary expenses actually incurred in the performance of their  
9 duties.

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

13 7. The department shall promulgate rules and regulations  
14 governing the operation of the child abuse and neglect review  
15 board except as otherwise provided for in this section. These  
16 rules and regulations shall, at a minimum, describe the length of  
17 terms, the selection of the chairperson, confidentiality,  
18 notification of parties and time frames for the completion of the  
19 review.

20 8. Findings of probable cause to suspect prior to the  
21 effective date of this section or findings by a preponderance of  
22 the evidence after the effective date of this section of child  
23 abuse and neglect by the division which are substantiated by  
24 court adjudication shall not be heard by the child abuse and  
25 neglect review board or the administrative hearing commission.

1 Such findings by the division which are substantiated by the  
2 administrative hearing commission shall not be heard by the child  
3 abuse and neglect review board.

4 210.160. 1. In every case involving an abused or neglected  
5 child which results in a judicial proceeding, the judge shall  
6 appoint a guardian ad litem to appear for and represent:

7 (1) A child who is the subject of proceedings pursuant to  
8 sections 210.110 to 210.165, sections 210.700 to 210.760,  
9 sections 211.442 to 211.487, RSMo, or sections 453.005 to  
10 453.170, RSMo, or proceedings to determine custody or visitation  
11 rights under sections 452.375 to 452.410, RSMo; or

12 (2) A parent who is a minor, or who is a mentally ill  
13 person or otherwise incompetent, and whose child is the subject  
14 of proceedings under sections 210.110 to 210.165, sections  
15 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or  
16 sections 453.005 to 453.170, RSMo.

17 2. The guardian ad litem shall be provided with all reports  
18 relevant to the case made to or by any agency or person [and],  
19 shall have access to all records of such agencies or persons  
20 relating to the child or such child's family members or  
21 placements of the child, and upon appointment by the court to a  
22 case, shall be informed of and attend at least two family support  
23 team meetings involving the child. Employees of the division,  
24 officers of the court, and employees of any agency involved shall  
25 fully inform the guardian ad litem of all aspects of the case of

1 which they have knowledge or belief.

2 3. The appointing judge shall require the guardian ad litem  
3 to faithfully discharge such guardian ad litem's duties, and upon  
4 failure to do so shall discharge such guardian ad litem and  
5 appoint another. The appointing judge shall have the authority  
6 to examine the general and criminal background of persons  
7 appointed as guardians ad litem, including utilization of the  
8 family care safety registry and access line pursuant to sections  
9 210.900 to 210.937, to ensure the safety and welfare of the  
10 children such persons are appointed to represent. The judge in  
11 making appointments pursuant to this section shall give  
12 preference to persons who served as guardian ad litem for the  
13 child in the earlier proceeding, unless there is a reason on the  
14 record for not giving such preference.

15 4. The guardian ad litem may be awarded a reasonable fee  
16 for such services to be set by the court. The court, in its  
17 discretion, may award such fees as a judgment to be paid by any  
18 party to the proceedings or from public funds. However, no fees  
19 as a judgment shall be taxed against a party or parties who have  
20 not been found to have abused or neglected a child or children.  
21 Such an award of guardian fees shall constitute a final judgment  
22 in favor of the guardian ad litem. Such final judgment shall be  
23 enforceable against the parties in accordance with chapter 513,  
24 RSMo.

25 5. The court may designate volunteer advocates, who may or



1 may not be attorneys licensed to practice law, to assist in the  
2 performance of the guardian ad litem duties for the court. The  
3 court shall have the authority to examine the general and  
4 criminal background of persons designated as volunteer advocates,  
5 including utilization of the family care safety registry and  
6 access line pursuant to sections 210.900 to 210.937, to ensure  
7 the safety and welfare of the children such persons are  
8 designated to represent. The volunteer advocate shall be  
9 provided with all reports relevant to the case made to or by any  
10 agency or person [and], shall have access to all records of such  
11 agencies or persons relating to the child or such child's family  
12 members or placements of the child, and upon designation by the  
13 court to a case, shall be informed of and have the right to  
14 attend any and all meetings involving the child. Any such  
15 designated person shall receive no compensation from public  
16 funds. This shall not preclude reimbursement for reasonable  
17 expenses.

18 6. Any person appointed to perform guardian ad litem duties  
19 shall have completed a training program in permanency planning  
20 and shall advocate for timely court hearings whenever possible to  
21 attain permanency for a child as expeditiously as possible to  
22 reduce the effects that prolonged foster care may have on a  
23 child. A nonattorney volunteer advocate shall have access to a  
24 court appointed attorney guardian ad litem should the  
25 circumstances of the particular case so require.

1           210.183. 1. At the time of the initial investigation of a  
2 report of child abuse or neglect, the division employee  
3 conducting the investigation shall provide the alleged  
4 perpetrator with a written description of the investigation  
5 process. Such written notice shall be given substantially in the  
6 following form:

7           "The investigation is being undertaken by the Children's  
8 Division [of Family Services] pursuant to the requirements of  
9 chapter 210 of the Revised Missouri Statutes in response to a  
10 report of child abuse or neglect.

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

14           ["]This investigation is required by law to be conducted in  
15 order to enable the Children's Division [of Family Services] to  
16 identify incidents of abuse or neglect in order to provide  
17 protective or preventive social services to families who are in  
18 need of such services.

19           ["]The division shall make every reasonable attempt to  
20 complete the investigation within thirty days. Within ninety  
21 days you will receive a letter from the Division which will  
22 inform you of one of the following:

23           ["](1) That the Division has found insufficient evidence of  
24 abuse or neglect; or

25           ["](2) That there appears to be [probable cause] by a

1     preponderance of the evidence reason to suspect the existence of  
2     child abuse or neglect in the judgment of the Division and that  
3     the Division will contact the family to offer social services.

4             ["]If the Division finds [there is probable cause] by a  
5     preponderance of the evidence reason to believe child abuse or  
6     neglect has occurred or the case is substantiated by court  
7     adjudication, a record of the report and information gathered  
8     during the investigation will remain on file with the Division.

9             ["]If you disagree with the determination of the Division  
10    and feel that there is insufficient [probable cause to believe]  
11    reason to believe by a preponderance of the evidence that abuse  
12    or neglect has occurred, you have a right to request an  
13    administrative review at which time you may hire an attorney to  
14    represent you. If you request an administrative review on the  
15    issue, you will be notified of the date and time of your  
16    administrative review hearing by the child abuse and neglect  
17    review board. If the division's decision is reversed by the  
18    child abuse and neglect review board, the Division records  
19    concerning the report and investigation will be updated to  
20    reflect such finding. If the child abuse and neglect review  
21    board upholds the division's decision, an appeal may be filed [in  
22    circuit court within sixty] with the administrative hearing  
23    commission within thirty days of the child abuse and neglect  
24    review board's decision. If the administrative hearing  
25    commission upholds the division's decision, an appeal may be

1 filed in circuit court within thirty days of the administrative  
2 hearing commission's decision."

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

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

7 (2) The name of the person responding and his or her office  
8 telephone number;

9 (3) The assessment process to be followed during the  
10 division's intervention with the family including the possible  
11 services available and expectations of the family.

12 210.187. 1. The task force on children's justice  
13 established by the children's division within the department of  
14 social services to recommend improvements in the area of child  
15 abuse and neglect services and provide funding for such  
16 recommendations shall provide an independent review of policies  
17 and procedures of state and local child protective services  
18 agencies, and where appropriate, specific cases, and shall  
19 evaluate the extent to which the agencies are effectively  
20 discharging their child protection responsibilities.

21 2. Consistent with the task force's function of reviewing  
22 applications for federal grant moneys available to the state  
23 under the Children's Justice Act which are designed to assist  
24 eligible states in implementing programs for the handling,  
25 investigation, and prosecution of child abuse cases, the task

1 force shall consider the awarding of grant moneys which address  
2 the issues that arise from the independent review conducted by  
3 the task force pursuant to subsection 1 of this section. As  
4 authorized by the Children's Justice Act, grant moneys shall be  
5 awarded for the following categories:

6 (1) Improvements to the investigative, administrative, and  
7 judicial handling of cases of child abuse and neglect;

8 (2) Experimental, model, and demonstration programs for  
9 testing innovative approaches and techniques to improve the  
10 prompt and successful resolution of court proceedings or enhance  
11 the effectiveness and judicial administration action in child  
12 abuse and neglect cases; and

13 (3) Reform of state laws, rules, protocols, and procedures  
14 to provide comprehensive protection for children from abuse and  
15 neglect.

16 3. The members of the task force shall not disclose to any  
17 person or government official any identifying information  
18 concerning a specific child protection case with respect to which  
19 the task force is providing information and shall not make public  
20 other information unless authorized by federal or state law.

21 4. The task force shall be provided:

22 (1) Access to information on cases that the task force  
23 desires or is requested to review if such information is  
24 necessary for the task force to carry out its functions pursuant  
25 to this section; and

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

3       210.188. Beginning February 1, 2006, and each February  
4       first thereafter, the department of social services shall submit  
5       a report to the governor and the general assembly that includes  
6       the following information for the previous calendar year:

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

9       (2) Of the number of children described in subdivision (1)  
10      of this section, the number with respect to whom such reports  
11      were substantiated or unsubstantiated;

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

14      (a) The number that did not receive or refused services  
15      during the year under a children's division program;

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

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

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

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

25      (6) Of the number of children described in subdivision (5)

1 of this section, the number of children who were in foster care  
2 or received services from a private service provider;

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

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

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

12 (10) The number of child protective services workers  
13 responsible for intake, assessment, and investigation of child  
14 abuse and neglect reports relative to the number of reports  
15 investigated during the year;

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

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

22 210.201. As used in sections 210.201 to 210.257, the  
23 following terms mean:

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

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



1 meetings and activities conducted or sponsored by a religious  
2 organization be required to submit documentation annually to the  
3 department to verify its licensure-exempt status;

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

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

12 210.211. 1. It shall be unlawful for any person to  
13 establish, maintain or operate a child-care facility for  
14 children, or to advertise or hold himself or herself out as being  
15 able to perform any of the services as defined in section  
16 210.201, without having in effect a written license granted by  
17 the department of health and senior services; except that nothing  
18 in sections 210.203 to 210.245 shall apply to:

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

24 (2) Any person who has been duly appointed by a court of  
25 competent jurisdiction the guardian of the person of the child or

1 children, or the person who has legal custody of the child or  
2 children;

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

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

12 (5) Any child-care facility maintained or operated under  
13 the exclusive control of a religious organization. When a  
14 nonreligious organization, having as its principal purpose the  
15 provision of child-care services, enters into an arrangement with  
16 a religious organization for the maintenance or operation of a  
17 child-care facility, the facility is not under the exclusive  
18 control of the religious organization;

19 (6) Any residential facility or day program licensed by the  
20 department of mental health pursuant to sections 630.705 to  
21 630.760, RSMo, which provides care, treatment and habilitation  
22 exclusively to children who have a primary diagnosis of mental  
23 disorder, mental illness, mental retardation or developmental  
24 disability, as defined in section 630.005, RSMo; and

25 (7) Any nursery school.

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

11           210.482. 1. If the emergency placement of a child in a  
12 private home is necessary due to the unexpected absence of the  
13 child's parents, legal guardian, or custodian, the juvenile court  
14 or children's division:

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

23           (2) Shall determine or, in the case of the juvenile court,  
24 shall request the division to determine whether any person  
25 seventeen years of age or older residing in the home is listed on

1 the child abuse and neglect registry.

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

22 3. If the placement of a child is denied as a result of a  
23 name-based criminal history check and the denial is contested,  
24 all persons seventeen years of age or older residing in the home  
25 shall, within five business days, submit to the juvenile court or

1 the children's division two sets of fingerprints in the same  
2 manner described in subsection 2 of this section, accompanying  
3 fees, and written permission authorizing the juvenile court or  
4 the children's division to forward the fingerprints to the state  
5 criminal record repository for submission to the Federal Bureau  
6 of Investigation. One set of fingerprints shall be used by the  
7 highway patrol to search the criminal history repository and the  
8 second set shall be forwarded to the Federal Bureau of  
9 Investigation for searching the federal criminal history files.

10 4. Subject to appropriation, the total cost of  
11 fingerprinting required by this section may be paid by the state,  
12 including reimbursement of persons incurring fingerprinting costs  
13 under this section.

14 5. For the purposes of this section, "emergency placement"  
15 refers to those limited instances when the juvenile court or  
16 children's division is placing a child in the home of private  
17 individuals, including neighbors, friends, or relatives, as a  
18 result of a sudden unavailability of the child's primary  
19 caretaker.

20 210.487. 1. When conducting investigations of persons for  
21 the purpose of foster parent licensing, the division shall:

22 (1) Conduct a search for all adults in the applicant's  
23 household for evidence of full orders of protection. The office  
24 of state courts administrator shall allow access to the automated  
25 court information system by the division. The clerk of each

1 court contacted by the division shall provide the division  
2 information within ten days of a request; and

3 (2) Obtain two sets of fingerprints for any adult in the  
4 applicant's household in the same manner set forth in subsection  
5 2 of section 210.482. One set of fingerprints shall be used by  
6 the highway patrol to search the criminal history repository and  
7 the second set shall be forwarded to the Federal Bureau of  
8 Investigation for searching the federal criminal history files.

9 The highway patrol shall assist the division and provide the  
10 criminal fingerprint background information, upon request; and

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

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

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

21 4. The division may promulgate rules that are necessary to  
22 implement the provisions of this section. No rule or portion of  
23 a rule promulgated pursuant to the authority of this section  
24 shall become effective unless it has been promulgated pursuant to  
25 chapter 536, RSMo.

1           210.518. 1. The department of social services, the  
2 department of mental health, the department of elementary and  
3 secondary education and all subdivisions thereof shall develop  
4 and implement through interagency agreement a common system of  
5 classification for assessing the needs of a child and common  
6 terminology to describe the services to be provided to the child.  
7 The agreement must establish a standardized form and set of  
8 records to be kept for such children which shall include, if  
9 applicable to such child, any individualized education plan,  
10 diagnostic summary, school history, school records, medical  
11 history, court records, placement orders and any criminal  
12 history. The agreement shall be adopted and in effect on or  
13 before July 1, 1999.

14           2. To facilitate the coordination of services being  
15 provided to children, interagency meetings pursuant to subsection  
16 1 of this section shall be held as frequently as appropriate to  
17 address and review any actions being taken by agency personnel  
18 involved in the provision of services to a child. The agencies  
19 shall document which staff members attended such meetings. If  
20 any services for the child are provided through contracted  
21 providers, such providers shall be included in the meetings  
22 described in this section.

23           210.535. The department of social services, shall:

24           (1) Submit amendments to state plans and seek available  
25 waivers from the federal Department of Health and Human Services

1 to enhance federal reimbursement and federal administrative  
2 reimbursement for foster care and adoption assistance under Title  
3 IV-E of the Social Security Act and Title XIX of the Social  
4 Security Act; and

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

8 210.542. 1. The children's division shall provide certain  
9 standards and training that prospective foster care parents shall  
10 meet before becoming licensed.

11 2. The children's division shall provide performance-based  
12 criteria for the evaluation of licensed foster parents and may  
13 establish by rule the frequency of such evaluation.

14 210.565. 1. Whenever a child is placed in a foster home  
15 and the court has determined pursuant to subsection 3 of this  
16 section that foster home placement with relatives is not contrary  
17 to the best interest of the child, the children's division [of  
18 family services] shall give [preference and first consideration  
19 for] foster home placement to relatives of the child.

20 Notwithstanding any rule of the division to the contrary,  
21 grandparents who request consideration shall be given preference  
22 and first consideration for foster home placement.

23 2. As used in this section, the term "relative" means a  
24 person related to another by blood or affinity within the third  
25 degree. The status of a grandparent shall not be affected by the



1 death or the dissolution of the marriage of a son or daughter.

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

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

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

18 210.760. 1. In making placements in foster care the  
19 children's division [of family services] shall:

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

22 (2) Provide full and accurate medical information and  
23 medical history to the persons providing foster care at the time  
24 of placement;

25 (3) Give a minimum of five days advance notice to the

1 persons providing foster care before removing a child from their  
2 care;

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

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

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

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

19 210.762. 1. The children's division shall arrange for an  
20 team meeting within twenty-four hours following the status  
21 conference held pursuant to section 211.032, RSMo, and any  
22 additional team meetings prior to taking any action relating to  
23 the placement of a child in its custody except as otherwise  
24 provided in this section. Where the welfare of the child  
25 requires an immediate or emergency placement or change of

1 placement, the division may take the necessary steps for a  
2 temporary placement of a child in its custody to be made. The  
3 division shall schedule a team meeting within seventy-two hours  
4 of the temporary placement of the child.

5 2. The biological or adoptive parents, the legal counsel  
6 for the biological or adoptive parents, the foster parents, the  
7 guardian ad litem for the child, and the volunteer advocate, and  
8 any designee of the parent that has written authorization shall  
9 be notified and invited to participate in all team meetings. The  
10 team meeting may include such other persons whose attendance at  
11 the meeting may assist the team in making appropriate decisions  
12 in the best interests of the child. If the division finds that  
13 it is not in the best interest of a child to be placed with  
14 relatives, the division shall make specific findings in the  
15 division's report detailing the reasons why the best interests of  
16 the child necessitate placement of the child with persons other  
17 than relatives.

18 3. The division shall use the form created in subsection 2  
19 of section 210.147 to be signed upon the conclusion of the  
20 meeting pursuant to subsection 1 of this section confirming that  
21 all involved parties are aware of the team's decision regarding  
22 the custody and placement of the child. Any dissenting views  
23 must be recorded and attested to on such form.

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

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

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

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

14           (2) Probable cause findings of abuse and neglect prior to  
15 the effective date of this section or findings of abuse and  
16 neglect by a preponderance of the evidence after the effective  
17 date of this section pursuant to sections 210.109 to 210.183 and,  
18 as of January 1, 2003, financial exploitation of the elderly or  
19 disabled, pursuant to section 570.145, RSMo;

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

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

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

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

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

6           (8) As of January 1, 2004, a check of the patrol's Missouri  
7 uniform law enforcement system (MULES) for sexual offender  
8 registrations pursuant to section 589.400, RSMo.

9           210.909. 1. Upon submission of a completed registration  
10 form by a child-care worker, elder-care worker or personal-care  
11 attendant, the department shall:

12           (1) Determine if a probable cause finding of child abuse or  
13 neglect prior to the effective date of this section or a finding  
14 of child abuse or neglect by a preponderance of the evidence  
15 after the effective date of this section involving the applicant  
16 has been recorded pursuant to sections 210.109 to 210.183 and, as  
17 of January 1, 2003, if there is a probable cause finding of  
18 financial exploitation of the elderly or disabled pursuant to  
19 section 570.145, RSMo;

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

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

25           (4) As of January 1, 2003, determine if the applicant is

1 listed on the department of mental health's employee  
2 disqualification registry;

3 (5) Determine through a request to the patrol pursuant to  
4 section 43.540, RSMo, whether the applicant has any criminal  
5 history record for a felony or misdemeanor or any offense for  
6 which the person has registered pursuant to sections 589.400 to  
7 589.425, RSMo; and

8 (6) If the background check involves a provider, determine  
9 if a facility has been refused licensure or has experienced  
10 licensure suspension, revocation or probationary status pursuant  
11 to sections 210.201 to 210.259 or chapter 198, RSMo; and

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

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

24 3. The department shall notify such registrant in writing  
25 of the results of the determination recorded on the registry

1 pursuant to this section.

2 211.031. 1. Except as otherwise provided in this chapter,  
3 the juvenile court or the family court in circuits that have a  
4 family court as provided in sections 487.010 to 487.190, RSMo,  
5 shall have exclusive original jurisdiction in proceedings:

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

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

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

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

24 (d) The child or person seventeen years of age is a child  
25 in need of mental health services and the parent, guardian or

1       custodian is unable to afford or access appropriate mental health  
2       treatment or care for the child;

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

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

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

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

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

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

23              (3)   Involving any child who is alleged to have violated a  
24       state law or municipal ordinance, or any person who is alleged to  
25       have violated a state law or municipal ordinance prior to



1     attaining the age of seventeen years, in which cases jurisdiction  
2     may be taken by the court of the circuit in which the child or  
3     person resides or may be found or in which the violation is  
4     alleged to have occurred; except that, the juvenile court shall  
5     not have jurisdiction over any child fifteen and one-half years  
6     of age who is alleged to have violated a state or municipal  
7     traffic ordinance or regulation, the violation of which does not  
8     constitute a felony, or any child who is alleged to have violated  
9     a state or municipal ordinance or regulation prohibiting  
10    possession or use of any tobacco product;

11         (4) For the adoption of a person;

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

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

18         (1) Prior to the filing of a petition and upon request of  
19     any party or at the discretion of the juvenile officer, the  
20     matter in the interest of a child or person seventeen years of  
21     age may be transferred by the juvenile officer, with the prior  
22     consent of the juvenile officer of the receiving court, to the  
23     county of the child's residence or the residence of the person  
24     seventeen years of age for future action;

25         (2) Upon the motion of any party or on its own motion prior

1 to final disposition on the pending matter, the court in which a  
2 proceeding is commenced may transfer the proceeding of a child or  
3 person seventeen years of age to the court located in the county  
4 of the child's residence or the residence of the person seventeen  
5 years of age, or the county in which the offense pursuant to  
6 subdivision (3) of subsection 1 of this section is alleged to  
7 have occurred for further action;

8 (3) Upon motion of any party or on its own motion, the  
9 court in which jurisdiction has been taken pursuant to subsection  
10 1 of this section may at any time thereafter transfer  
11 jurisdiction of a child or person seventeen years of age to the  
12 court located in the county of the child's residence or the  
13 residence of the person seventeen years of age for further action  
14 with the prior consent of the receiving court;

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

22 (5) Upon motion of any child or person seventeen years of  
23 age or his or her parent, the court having jurisdiction shall  
24 grant one change of judge pursuant to Missouri Supreme Court  
25 Rules;

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

6       3. In any proceeding involving any child or person  
7 seventeen years of age taken into custody in a county other than  
8 the county of the child's residence or the residence of a person  
9 seventeen years of age, the juvenile court of the county of the  
10 child's residence or the residence of a person seventeen years of  
11 age shall be notified of such taking into custody within  
12 seventy-two hours.

13       4. When an investigation by a juvenile officer pursuant to  
14 this section reveals that the only basis for action involves an  
15 alleged violation of section 167.031, RSMo, involving a child who  
16 alleges to be home schooled, the juvenile officer shall contact a  
17 parent or parents of such child to verify that the child is being  
18 home schooled and not in violation of section 167.031, RSMo,  
19 before making a report of such a violation. Any report of a  
20 violation of section 167.031, RSMo, made by a juvenile officer  
21 regarding a child who is being home schooled shall be made to the  
22 prosecuting attorney of the county where the child legally  
23 resides.

24       211.032. 1. When a child or person seventeen years of age,  
25 alleged to be in need of care and treatment pursuant to

1 subdivision (1) of subsection 1 of section 211.031, is taken into  
2 custody, the juvenile or family court shall make reasonable  
3 efforts to notify the [parties of the right to have a protective  
4 custody hearing. Such notification shall be in writing.]  
5 biological or adoptive parents, the foster parents, and the  
6 grandparents of the child, the children's division worker, the  
7 child abuse and neglect hotline worker, and the guardian ad litem  
8 or volunteer advocate for the child of the specific date, time,  
9 and place that a status conference will be held by the court.  
10 Such status conference shall be a closed conference and shall be  
11 held within seventy-two hours of the child being taken into  
12 custody, excluding Saturdays, Sundays, and legal holidays. The  
13 inability to provide notice to any of the persons listed in this  
14 subsection after reasonable efforts have been made or the absence  
15 of any such persons at the status conference shall not preclude  
16 the court from conducting the status conference as scheduled.  
17 The supreme court shall establish procedures for the status  
18 conference held pursuant to this subsection which shall include,  
19 but not be limited to, the following issues:

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

23 (2) Appointment of a guardian ad litem or volunteer  
24 advocate for the child;

25 (3) Appointment of legal counsel;

1       (4) Whether paternity has been established or needs to be  
2 established;

3       (5) Service of process and the location of any absent  
4 parent;

5       (6) Whether reasonable efforts were made and documented by  
6 the division prior to the removal or emergency removal of the  
7 child and whether the safety issue justifying custody is  
8 documented;

9       (7) A contrary to welfare finding;

10       (8) Placement of the child and the availability of  
11 relatives of the child as the preferred placement;

12       (9) Whether the removal of the child necessitates a  
13 placement which will cause a disruption in the school currently  
14 attended by such child;

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

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

20       (12) Providing for any necessary evaluations, including  
21 medical or psychological evaluations; and

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

1 A protective custody hearing may be requested at a status  
2 conference, and if requested, a date for such hearing shall be  
3 scheduled pursuant to subsection 2 of this section at the time of  
4 the status conference whenever possible; except that, if neither  
5 of the parents of the child are present at the status conference  
6 because of incarceration, institutionalization, or  
7 hospitalization of the parents, a protective custody hearing may  
8 be scheduled if necessary to provide the legal rights and  
9 protections of the parents and, if scheduled, shall be held  
10 within fourteen days of the date of the status conference in  
11 accordance with subsection 2 of this section.

12       2. Upon request from any party or upon request during a  
13 status conference, the court shall hold a protective custody  
14 hearing[. Such hearing shall be held within three] within  
15 fourteen days of the request for a hearing, excluding Saturdays,  
16 Sundays and legal holidays. No continuances shall be granted for  
17 such protective custody hearing except upon a written motion for  
18 cause filed and signed by the party requesting the continuance  
19 and such party's attorney if represented by counsel.

20       3. The court shall hold an adjudication hearing no later  
21 than sixty days after the child has been taken into custody. The  
22 court shall notify the parties in writing of the specific date,  
23 time, and place of such hearing. If at such hearing the court  
24 determines that sufficient cause exists for the child to remain  
25 in the custody of the state, the court shall conduct a

1 dispositional hearing no later than ninety days after the child  
2 has been taken into custody and shall conduct review hearings  
3 regarding the reunification efforts made by the division every  
4 ninety to one hundred twenty days for the first year the child is  
5 in the custody of the division. After the first year, review  
6 hearings shall be held as necessary, but in no event less than  
7 once every six months for as long as the child is in the custody  
8 of the division.

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

13       5. A court shall be considered in compliance with the time  
14 requirements for holding hearings under this section if such  
15 hearings are initiated within the time specified. Failure to  
16 hold and complete a status conference within the time specified  
17 in this section shall result in a dismissal of the case without  
18 prejudice by the court. If a case is dismissed without prejudice  
19 under this subsection, the division shall not retain custody of  
20 the child for more than twenty-four hours after such dismissal  
21 unless the case is refiled with the court within such twenty-four  
22 hour period.

23       6. If the placement of any child in the custody of the  
24 children's division will result in the child attending a school  
25 other than the school the child was attending when taken into

1 custody:

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

5 (2) Upon request of the foster family and whenever  
6 possible, the child shall be permitted to continue to attend the  
7 same school that the child was enrolled in and attending at the  
8 time the child was taken into custody by the division. The  
9 division, in consultation with the department of elementary and  
10 secondary education, shall establish the necessary procedures to  
11 implement the provisions of this subsection.

12 211.038. No child under the jurisdiction of the juvenile  
13 court shall be reunited with a parent or placed in a home in  
14 which the parent or any person residing in the home has been  
15 found guilty of, or pled guilty to, a felony violation of chapter  
16 566, RSMo, except for section 566.034, RSMo, when a child was the  
17 victim, or a violation of chapter 568, RSMo, except for section  
18 568.040, RSMo, when a child was the victim, or an offense  
19 committed in another state when a child is the victim, that would  
20 be a felony violation of chapter 566, RSMo, except for section  
21 566.034, RSMo, or chapter 568, RSMo, except for section 568.040,  
22 RSMo, if committed in Missouri.

23 211.059. 1. When a child is taken into custody by a  
24 juvenile officer or law enforcement official, with or without a  
25 warrant for an offense in violation of the juvenile code or the



1 general law which would place the child under the jurisdiction of  
2 the juvenile court pursuant to subdivision (2) or (3) of  
3 subsection 1 of section 211.031, the child shall be advised prior  
4 to questioning:

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

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

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

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

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

18 3. Notwithstanding any prohibition of hearsay evidence, all  
19 video or audio recordings of any meetings, interviews, or  
20 interrogations conducted by the state of a child who is in the  
21 custody of the state, whether such meeting, interview, or  
22 interrogation was conducted prior to or after the child was taken  
23 into the custody of the state, shall be presumed admissible as  
24 evidence in any court or administrative proceeding involving the  
25 child. Only upon a showing by clear and convincing evidence that

1 such a video or audio recording lacks sufficient indicia of  
2 reliability shall such recording be inadmissible.

3 4. The provisions of subsection 2 of this section shall  
4 also apply to and the provisions of subsection 3 of this section  
5 shall only apply to a child who is taken into custody by a  
6 juvenile officer or law enforcement official pursuant to  
7 subdivision (1) of subsection 1 of section 211.031, including any  
8 interactions with the child by the children's division.

9 211.171. 1. The procedure to be followed at the hearing  
10 shall be determined by the juvenile court judge and may be as  
11 formal or informal as he or she considers desirable, consistent  
12 with constitutional and statutory requirements. The judge may  
13 take testimony and inquire into the habits, surroundings,  
14 conditions and tendencies of the child and the family to enable  
15 the court to render such order or judgment as will best promote  
16 the welfare of the child and carry out the objectives of this  
17 chapter.

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

21 3. The current foster parents of a child, or any  
22 preadoptive parent or relative currently providing care for the  
23 child, shall be provided with notice of, and an opportunity to be  
24 heard in, any [permanency or other review] hearing to be held  
25 with respect to the child. This subsection shall not be

1 construed to require that any such foster parent, preadoptive  
2 parent or relative providing care for a child be made a party to  
3 the case solely on the basis of such notice and opportunity to be  
4 heard.

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

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

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

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

25 8. The court shall allow the victim of any offense to

1 submit a written statement to the court. The court shall allow  
2 the victim to appear before the court personally or by counsel  
3 for the purpose of making a statement, unless the court finds  
4 that the presence of the victim would not serve justice. The  
5 statement shall relate solely to the facts of the case and any  
6 personal injuries or financial loss incurred by the victim. A  
7 member of the immediate family of the victim may appear  
8 personally or by counsel to make a statement if the victim has  
9 died or is otherwise unable to appear as a result of the offense  
10 committed by the child.

11 211.181. 1. When a child or person seventeen years of age  
12 is found by the court to come within the applicable provisions of  
13 subdivision (1) of subsection 1 of section 211.031, the court  
14 shall so decree and make a finding of fact upon which it  
15 exercises its jurisdiction over the child or person seventeen  
16 years of age, and the court may, by order duly entered, proceed  
17 as follows:

18 (1) Place the child or person seventeen years of age under  
19 supervision in his own home or in the custody of a relative or  
20 other suitable person after the court or a public agency or  
21 institution designated by the court conducts an investigation of  
22 the home, relative or person and finds such home, relative or  
23 person to be suitable and upon such conditions as the court may  
24 require;

25 (2) Commit the child or person seventeen years of age to

1 the custody of:

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

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

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

14 (d) The juvenile officer;

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

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

1 providing other remedial treatment recognized or permitted under  
2 the laws of this state;

3 (5) The court may order, pursuant to subsection 2 of  
4 section 211.081, that the child receive the necessary services in  
5 the least restrictive appropriate environment including home and  
6 community-based services, treatment and support, based on a  
7 coordinated, individualized treatment plan. The individualized  
8 treatment plan shall be approved by the court and developed by  
9 the applicable state agencies responsible for providing or paying  
10 for any and all appropriate and necessary services, subject to  
11 appropriation, and shall include which agencies are going to pay  
12 for and provide such services. Such plan must be submitted to  
13 the court within thirty days and the child's family shall  
14 actively participate in designing the service plan for the child  
15 or person seventeen years of age;

16 (6) The department of social services, in conjunction with  
17 the department of mental health, shall apply to the United States  
18 Department of Health and Human Services for such federal waivers  
19 as required to provide services for such children, including the  
20 acquisition of community-based services waivers.

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

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

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

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

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

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

21           (d) The juvenile officer;

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

23           (4) Cause the child to be examined and treated by a  
24 physician, psychiatrist or psychologist and when the health or  
25 condition of the child requires it, cause the child to be placed

1 in a public or private hospital, clinic or institution for  
2 treatment and care; except that, nothing contained herein  
3 authorizes any form of compulsory medical, surgical, or  
4 psychiatric treatment of a child whose parents or guardian in  
5 good faith are providing other remedial treatment recognized or  
6 permitted under the laws of this state;

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

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

19 (1) Place the child under supervision in his or her own  
20 home or in custody of a relative or other suitable person after  
21 the court or a public agency or institution designated by the  
22 court conducts an investigation of the home, relative or person  
23 and finds such home, relative or person to be suitable and upon  
24 such conditions as the court may require;

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



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

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

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

10          (d) The juvenile officer;

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

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

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

25          (6) Suspend or revoke a state or local license or authority

1 of a child to operate a motor vehicle;

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

14 (8) Order the child to a term of community service under  
15 the supervision of the court or of an organization selected by  
16 the court. Every person, organization, and agency, and each  
17 employee thereof, charged with the supervision of a child under  
18 this subdivision, or who benefits from any services performed as  
19 a result of an order issued under this subdivision, shall be  
20 immune from any suit by the child ordered to perform services  
21 under this subdivision, or any person deriving a cause of action  
22 from such child, if such cause of action arises from the  
23 supervision of the child's performance of services under this  
24 subdivision and if such cause of action does not arise from an  
25 intentional tort. A child ordered to perform services under this

1 subdivision shall not be deemed an employee within the meaning of  
2 the provisions of chapter 287, RSMo, nor shall the services of  
3 such child be deemed employment within the meaning of the  
4 provisions of chapter 288, RSMo. Execution of any order entered  
5 by the court, including a commitment to any state agency, may be  
6 suspended and the child placed on probation subject to such  
7 conditions as the court deems reasonable. After a hearing,  
8 probation may be revoked and the suspended order executed;

9 (9) When a child has been adjudicated to have violated a  
10 municipal ordinance or to have committed an act that would be a  
11 misdemeanor if committed by an adult, assess an amount of up to  
12 twenty-five dollars to be paid by the child to the clerk of the  
13 court; when a child has been adjudicated to have committed an act  
14 that would be a felony if committed by an adult, assess an amount  
15 of up to fifty dollars to be paid by the child to the clerk of  
16 the court.

17 4. Beginning January 1, 1996, the court may set forth in  
18 the order of commitment the minimum period during which the child  
19 shall remain in the custody of the division of youth services.  
20 No court order shall require a child to remain in the custody of  
21 the division of youth services for a period which exceeds the  
22 child's eighteenth birth date except upon petition filed by the  
23 division of youth services pursuant to subsection 1 of section  
24 219.021, RSMo. In any order of commitment of a child to the  
25 custody of the division of youth services, the division shall

1 determine the appropriate program or placement pursuant to  
2 subsection 3 of section 219.021, RSMo. Beginning January 1,  
3 1996, the department shall not discharge a child from the custody  
4 of the division of youth services before the child completes the  
5 length of stay determined by the court in the commitment order  
6 unless the committing court orders otherwise. The director of  
7 the division of youth services may at any time petition the court  
8 for a review of a child's length of stay commitment order, and  
9 the court may, upon a showing of good cause, order the early  
10 discharge of the child from the custody of the division of youth  
11 services. The division may discharge the child from the division  
12 of youth services without a further court order after the child  
13 completes the length of stay determined by the court or may  
14 retain the child for any period after the completion of the  
15 length of stay in accordance with the law.

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

22 211.319. 1. On or before July 1, 2005, all juvenile court  
23 proceedings conducted pursuant to subdivision (1) of subsection 1  
24 of section 211.031 and for termination of parental rights cases  
25 pursuant to sections 211.442 to 211.487 initiated by a juvenile

1 officer or the division shall be open to the public. The court,  
2 on its own motion, may close, in whole or in part, the  
3 proceedings to the public and may exclude, for good cause shown,  
4 any person from the proceedings to protect the welfare and best  
5 interests of the child and for exceptional circumstances. Any  
6 party to a juvenile court proceeding referred to in this  
7 subsection, except the state, may file a motion requesting that  
8 the general public be excluded from the proceeding or any portion  
9 of the proceeding. Upon the filing of such motion, the court  
10 shall hear arguments by the parties, but no evidence, and shall  
11 make a determination whether to exclude the general public from  
12 the proceedings or any portion of the proceedings. The court  
13 shall make a finding on the record when a motion to close a  
14 hearing pursuant to this section is made and heard by the court.

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

21 3. For juvenile court proceedings described in subsection 1  
22 of this section, pleadings and orders of the juvenile court other  
23 than confidential files and those specifically ordered closed by  
24 the juvenile court judge shall be open to the general public.  
25 For purposes of this section, "confidential file" means all other

1 records and reports considered closed or confidential by law,  
2 including but not limited to medical reports, psychological or  
3 psychiatric evaluations, investigation reports of the children's  
4 division, social histories, home studies, and police reports and  
5 law enforcement records. Only persons who are found by the court  
6 to have a legitimate interest shall be allowed access to  
7 confidential or closed files. In determining whether a person  
8 has a legitimate interest, the court shall consider the nature of  
9 the proceedings, the welfare and safety of the public, and the  
10 interest of the victim.

11 4. For records made available to the public pursuant to  
12 this section:

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

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

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

23 302.272. 1. No person shall operate any school bus owned  
24 by or under contract with a public school or the state board of  
25 education unless such driver has qualified for a school bus

1 permit under this section and complied with the pertinent rules  
2 and regulations of the department of revenue. A school bus  
3 permit shall be issued to any applicant who meets the following  
4 qualifications:

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

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

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

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

22 2. Except as otherwise provided in this section, a school  
23 bus permit shall be renewed every three years and shall require  
24 the applicant to provide a medical examination as specified in  
25 subdivision (3) of subsection 1 of this section and to

1 successfully pass a written skills examination as prescribed by  
2 the director of revenue in consultation with the department of  
3 elementary and secondary education. If the applicant is at least  
4 seventy years of age, the school bus permit shall be renewed  
5 annually, and the applicant shall successfully pass the  
6 examination prescribed in subdivision (4) of subsection 1 of this  
7 section prior to receiving the renewed permit. The director may  
8 waive the written skills examination on renewal of a school bus  
9 permit upon verification of the applicant's successful completion  
10 within the preceding twelve months of a training program which  
11 has been approved by the director in consultation with the  
12 department of elementary and secondary education and which is at  
13 least eight hours in duration with special instruction in school  
14 bus driving.

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

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

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



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

5           (2) Who has pled guilty to or been found guilty of any  
6 felony or misdemeanor for violation of drug regulations as  
7 defined in chapter 195, RSMo; of any felony for an offense  
8 against the person as defined by chapter 565, RSMo, or any other  
9 offense against the person involving the endangerment of a child  
10 as prescribed by law; of any misdemeanor or felony for a sexual  
11 offense as defined by chapter 566, RSMo; of any misdemeanor or  
12 felony for prostitution as defined by chapter 567, RSMo; of any  
13 misdemeanor or felony for an offense against the family as  
14 defined in chapter 568, RSMo; of any felony or misdemeanor for a  
15 weapons offense as defined by chapter 571, RSMo; of any  
16 misdemeanor or felony for pornography or related offense as  
17 defined by chapter 573, RSMo; or of any similar crime in any  
18 federal, state, municipal or other court of similar jurisdiction  
19 of which the director has knowledge;

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

1           6. The [department of social services or the] Missouri  
2 highway patrol[, whichever has access to applicable records,]  
3 shall provide a record of clearance or denial of clearance for  
4 any applicant for a school bus permit for the [convictions]  
5 offenses specified in subdivisions (2) and (3) of subsection 5 of  
6 this section. The Missouri highway patrol in providing the  
7 record of clearance or denial of clearance for any such applicant  
8 is authorized to obtain from the Federal Bureau of Investigation  
9 any information which might aid the Missouri highway patrol in  
10 providing such record of clearance or denial of clearance. The  
11 [department of social services or the] Missouri highway patrol  
12 shall provide the record of clearance or denial of clearance  
13 within thirty days of the date requested, relying on information  
14 available at that time, except that the [department of social  
15 services or the] Missouri highway patrol shall provide any  
16 information subsequently discovered to the department of revenue.

17           7. Beginning January 1, 2005, the director shall request  
18 that the department of social services determine whether the  
19 applicant is listed on the child abuse and neglect registry and  
20 shall require the applicant to submit two sets of fingerprints.  
21 One set of fingerprints shall be used by the highway patrol in  
22 order to search the criminal history repository and the second  
23 set shall be forwarded to the Federal Bureau of Investigation for  
24 searching the federal criminal history files.

25           8. The applicant shall pay the fee for the state criminal

1 history information pursuant to section 43.530, RSMo, and pay the  
2 appropriate fee determined by the Federal Bureau of Investigation  
3 for the federal criminal history record when he or she applies  
4 for the school bus permit pursuant to this section. The director  
5 shall distribute the fees collected for the state and federal  
6 criminal histories to the highway patrol.

7 9. If, as a result of the criminal history background check  
8 required by this section, it is determined that an applicant has  
9 been charged with, pled guilty or nolo contendere to, or been  
10 found guilty of a child abuse offense or sexual offense under the  
11 laws of this state, any other state, the United States, or any  
12 other country, regardless of imposition of sentence, the director  
13 of revenue shall not issue or renew a school bus permit to such  
14 applicant. If, as a result of the criminal history background  
15 check required by this section, it is determined that an  
16 applicant has been charged with, pled guilty or nolo contendere  
17 to, or been found guilty of any other crime under the laws of  
18 this state, any other state, the United States, or any other  
19 country, regardless of imposition of sentence, such information  
20 shall be reported to any school or school district requesting  
21 such information from the department regarding any bus driver  
22 applying for a position with or employed by the school or school  
23 district.

24 10. The director may adopt any rules and regulations  
25 necessary to carry out the provisions of this section. Any rule

1 or portion of a rule, as that term is defined in section 536.010,  
2 RSMo, that is created under the authority delegated in this  
3 section shall become effective only if it complies with and is  
4 subject to all of the provisions of chapter 536, RSMo, and, if  
5 applicable, section 536.028, RSMo. This section and chapter 536,  
6 RSMo, are nonseverable and if any of the powers vested with the  
7 general assembly pursuant to chapter 536, RSMo, to review, to  
8 delay the effective date, or to disapprove and annul a rule are  
9 subsequently held unconstitutional, then the grant of rulemaking  
10 authority and any rule proposed or adopted after the effective  
11 date of this section, shall be invalid and void.

12 402.199. 1. The general assembly hereby finds and declares  
13 the following:

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

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

23 (3) Families and friends of persons with a mental or  
24 physical impairment desire to supplement, but not replace, the  
25 basic support provided by state government and other governmental

1 programs;

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

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

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

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

1           402.200. As used in sections 402.199 to 402.220, the  
2 following terms mean:

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

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

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

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

13           (5) "Life beneficiary" or "beneficiary", a designated  
14 beneficiary of the Missouri family trust;

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

17           (7) "Principal balance", the fair market value of all  
18 contributions made to a particular account, less distributions,  
19 determined as of the end of the calendar month immediately  
20 preceding the occurrence giving rise to any determination of  
21 principal balance;

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

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

25           (10) "Successor trust", the trust established upon

1 distribution by the board of trustees pursuant to notice of  
2 withdrawal or termination and administered as set forth in  
3 section 402.215;

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

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

8 402.205. 1. The families, friends and guardians of persons  
9 who have a disability or are eligible for services provided by  
10 the department of mental health, or both, may participate in a  
11 trust which may supplement the care, support, and treatment of  
12 such persons pursuant to the provisions of sections 402.199 to  
13 402.220. Neither the contribution to the trust for the benefit  
14 of a life beneficiary nor the use of trust income to provide  
15 benefits shall in any way reduce, impair or diminish the benefits  
16 to which such person is otherwise entitled by law; and the  
17 administration of the trust shall not be taken into consideration  
18 in appropriations for the department of mental health to render  
19 services required by law.

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

24 3. The assets of the board of trustees and assets held in  
25 trust pursuant to the provisions of sections 402.199 to 402.220

1 shall not be considered state money, assets of the state or  
2 revenue for any purposes of the state constitution or statutes.  
3 The property of the board of trustees and its income and  
4 operations shall be exempt from all taxation by the state or any  
5 of its political subdivisions.

6 402.215. 1. The board of trustees is authorized and  
7 directed to establish and administer the Missouri family trust  
8 and to advise, consult with, and render services to departments  
9 and agencies of the state of Missouri and to other nonprofit  
10 organizations which qualify as organizations pursuant to Section  
11 501(c)(3) of the United States Internal Revenue Code of 1986, as  
12 amended, and which provide services to Missouri residents with a  
13 disability. The board shall be authorized to execute all  
14 documents necessary to establish and administer the trust  
15 including the formation of a not-for-profit corporation created  
16 pursuant to chapter 355, RSMo, and to qualify as an organization  
17 pursuant to Section 501(c)(3) of the United States Internal  
18 Revenue Code of 1986, as amended.

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

21 (1) The Missouri family trust shall be authorized to accept  
22 contributions from any source including trustees, personal  
23 representatives, personal custodians pursuant to chapter 404,  
24 RSMo, and other fiduciaries, [other than directly] and, subject  
25 to the provisions of subdivision (11) of this subsection, from



1 the life beneficiaries and their respective spouses, to be held,  
2 administered, managed, invested and distributed in order to  
3 facilitate the coordination and integration of private financing  
4 for individuals who have a disability or are eligible for  
5 services provided by the Missouri department of mental health, or  
6 both, while maintaining the eligibility of such individuals for  
7 government entitlement funding. All contributions, and the  
8 earnings thereon, shall be administered as one trust fund;  
9 however, separate accounts shall be established for each  
10 designated beneficiary. The income earned, after deducting  
11 administrative expenses, shall be credited to the accounts of the  
12 respective life beneficiaries in proportion to the principal  
13 balance in the account for each such life beneficiary, to the  
14 total principal balances in the accounts for all life  
15 beneficiaries.

16 (2) Every donor may designate a specific person as the life  
17 beneficiary of the contribution made by such donor. In addition,  
18 each donor may name a cotrustee, including the donor, and a  
19 successor or successors to the cotrustee, to act with the  
20 trustees of the trust on behalf of the designated life  
21 beneficiary; provided, however, a life beneficiary shall not be  
22 eligible to be a cotrustee or a successor cotrustee; provided,  
23 however, that court approval of the specific person designated as  
24 life beneficiary and as cotrustee or successor trustee shall be  
25 required in connection with any trust created pursuant to section

1 473.657, RSMo, or section 475.093, RSMo.

2 (3) The [trust] cotrustee, with the consent of the  
3 [cotrustee] trust, shall from time to time, but not less  
4 frequently than annually [agree on] determine the amount of  
5 income or principal or income and principal to be used to provide  
6 noncash benefits and the nature and type of benefits to be  
7 provided for the life beneficiary. Any net income which is not  
8 used shall be added to principal annually. [In the event that  
9 the trust and the donor, serving as the cotrustee, shall be  
10 unable to agree either on the amount of income or principal or  
11 income and principal to be used for or the benefits to be  
12 provided, then none of the income or principal shall be used.]  
13 In the event that the trust and the cotrustee[, other than the  
14 donor,] shall be unable to agree either on the amount of income  
15 or principal or income and principal to be used or the benefits  
16 to be provided, then either the trust or the cotrustee shall have  
17 the right to request that the matter be resolved by arbitration  
18 which shall be conducted in accordance with the Commercial  
19 Arbitration Rules of the American Arbitration Association. The  
20 requesting party shall send a written request for arbitration to  
21 the responding party and shall in such request set forth the  
22 name, address and telephone number of such requesting party's  
23 arbitrator. The responding party shall, within ten days after  
24 receipt of the request for arbitration, set forth in writing to  
25 the requesting party the name, address and telephone number of

1 the responding party's arbitrator. Copies of the request for  
2 arbitration and response shall be sent to the director of the  
3 department. If the two designated arbitrators shall be unable to  
4 agree upon a third arbitrator within ten days after the  
5 responding party shall have identified such party's arbitrator,  
6 then the director of the department shall designate the third  
7 arbitrator by written notice to the requesting and responding  
8 parties' arbitrators. The three arbitrators shall meet, conduct  
9 a hearing, and render a decision within thirty days after the  
10 appointment of the third arbitrator. A decision of a majority of  
11 the arbitrators shall be binding upon the requesting and  
12 responding parties. Each party shall pay the fees and expenses  
13 of such party's arbitrator and the fees and expenses of the third  
14 arbitrator shall be borne equally by the parties. Judgment on  
15 the arbitrators' award may be entered in any court of competent  
16 jurisdiction.

17 (4) Any donor, during his or her lifetime, except for a  
18 trust created pursuant to section 473.657, RSMo, or section  
19 475.093, RSMo, may revoke any gift made to the trust; provided,  
20 however, any donor may, at any time, voluntarily waive the right  
21 to revoke. In the event that at the time the donor shall have  
22 revoked his or her gift to the trust the life beneficiary shall  
23 not have received any benefits provided by use of trust income or  
24 principal, then an amount equal to one hundred percent of the  
25 principal balance shall be returned to the donor. Any

1 undistributed net income shall be distributed to the charitable  
2 trust. In the event that at the time the donor shall have  
3 revoked his or her gift to the trust the life beneficiary shall  
4 have received any benefits provided by the use of trust income or  
5 principal, then an amount equal to ninety percent of the  
6 principal balance shall be returned to the donor. The balance of  
7 the principal balance together with all undistributed net income,  
8 shall be distributed to the charitable trust.

9 (5) Any acting cotrustee, except a cotrustee of a trust  
10 created pursuant to section 473.657, RSMo, or section 475.093,  
11 RSMo, other than the original donor of a life beneficiary's  
12 account, shall have the right, for good and sufficient reason  
13 upon written notice to the trust and the department stating such  
14 reason, to withdraw all or a portion of the principal balance.  
15 In such event, the applicable portion, as set forth [below] in  
16 subdivision (7) of this subsection, of the principal balance  
17 shall then be distributed to the successor trust and the balance  
18 of the principal balance together with any undistributed net  
19 income, shall be distributed to the charitable trust.

20 (6) In the event that a life beneficiary for whose benefit  
21 a contribution or contributions shall have been made to the  
22 family trust, [except a cotrustee of a trust created pursuant to  
23 section 473.657, RSMo, or section 475.093, RSMo,] shall [move  
24 from the state of Missouri or otherwise] cease to be eligible for  
25 services provided by the department of mental health and neither

1 the donor nor the then acting cotrustee, except a cotrustee of a  
2 trust created pursuant to section 473.657, RSMo, or section  
3 475.093, RSMo, shall revoke or withdraw [all] the applicable  
4 portion, as set for in subdivision (7) of this subsection, of the  
5 principal balance, then the board of trustees may, by written  
6 notice to such donor or acting cotrustee, terminate the trust as  
7 to such beneficiary and thereupon shall distribute the applicable  
8 portion, as set forth [herein] in subdivision (7) of this  
9 subsection, of the principal balance, to the trustee of the  
10 successor trust to be held, administered and distributed by such  
11 trustee in accordance with the provisions of the successor trust  
12 described in subdivision [(10)] (12) of this subsection.

13 (7) If at the time of withdrawal or termination as provided  
14 in subdivision (6) of this subsection of a life beneficiary's  
15 account from the trust either the life beneficiary shall not have  
16 received any benefits provided by the use of the trust income or  
17 principal or the life beneficiary shall have received benefits  
18 provided by the use of trust income or principal for a period of  
19 not more than five years from the date a contribution shall have  
20 first been made to the trust for such life beneficiary, then an  
21 amount equal to ninety percent of the principal balance shall be  
22 distributed to the successor trust, and the balance of the  
23 principal balance together with all undistributed net income,  
24 shall be distributed to the charitable trust; provided, however,  
25 if the life beneficiary at the time of such withdrawal by the

1 cotrustee or termination as provided above shall have received  
2 any benefits provided by the use of trust income or principal for  
3 a period of more than five years from the date a contribution  
4 shall have first been made to the trust for such life  
5 beneficiary, then an amount equal to seventy-five percent of the  
6 principal balance shall be distributed to the successor trust,  
7 and the balance of the principal balance together with all  
8 undistributed net income, shall be distributed to the charitable  
9 trust.

10 (8) Subject to the provisions of subdivision (9) of this  
11 subsection, if the life beneficiary dies before receiving any  
12 benefits provided by the use of trust income or principal, then  
13 an amount equal to one hundred percent of the principal balance  
14 shall be distributed to such person or persons as the donor shall  
15 have designated. Any undistributed net income shall be  
16 distributed to the charitable trust. If at the time of death of  
17 the life beneficiary, the life beneficiary shall have been  
18 receiving benefits provided by the use of trust income or  
19 principal or income and principal, then, in such event, an amount  
20 equal to seventy-five percent of the principal balance shall be  
21 distributed to such person or persons as the donor designated,  
22 and the balance of the principal balance, together with all  
23 undistributed net income, shall be distributed to the charitable  
24 trust.

25 (9) In the event the trust is created as a result of a

1 distribution from a personal representative of an estate of which  
2 the life beneficiary is a distributee, then if the life  
3 beneficiary dies before receiving any benefits provided by the  
4 use of trust income or principal, an amount equal to one hundred  
5 percent of the principal balance shall be distributed to such  
6 person or persons who are the life beneficiary's heirs at law.

7 [The balance, if any, of the principal balance, together with  
8 all] Any undistributed income shall be distributed to the  
9 charitable trust. If at the time of death of the life  
10 beneficiary the life beneficiary shall have been receiving  
11 benefits provided by the use of trust income or principal or  
12 income and principal, then, an amount equal to seventy-five  
13 percent of the principal balance shall be distributed to such  
14 person or persons who are the life beneficiary's heirs at law.  
15 The balance of the principal balance, together with all  
16 undistributed income shall be distributed to the charitable  
17 trust. If there are no heirs at the time of either such  
18 distribution, the then-principal balance together with all  
19 undistributed income shall be distributed to the charitable  
20 trust.

21 (10) In the event the trust is created as a result of the  
22 recovery of damages by reason of a personal injury to the life  
23 beneficiary, then if the life beneficiary dies before receiving  
24 any benefits provided by the use of trust income or principal,  
25 the state of Missouri shall receive all amounts remaining in the

1 life beneficiary's account up to an amount equal to the total  
2 medical assistance paid on behalf of such life beneficiary under  
3 a state plan under Title 42 of the United States Code, and then  
4 to the extent there is any amount remaining in the life  
5 beneficiary's account, an amount equal to one hundred percent of  
6 the principal balance shall be distributed to such person or  
7 persons who are the life beneficiary's heirs at law. If there  
8 are no heirs, the balance, if any, of the principal balance,  
9 together with all undistributed income shall be distributed to  
10 the charitable trust. If at the time of death of the life  
11 beneficiary the life beneficiary should have been receiving  
12 benefits provided by the use of trust income or principal or  
13 income and principal then the state of Missouri shall receive all  
14 amounts remaining in the life beneficiary's account up to an  
15 amount equal to the total medical assistance paid on behalf of  
16 such life beneficiary under a state plan under Title 42 of the  
17 United States Code, and then to the extent there is any amount  
18 remaining in the life beneficiary's account, an amount equal to  
19 seventy-five percent of the principal balance shall be  
20 distributed to such person or persons who are the life  
21 beneficiary's heirs at law[.] and the balance of the principal  
22 balance together with all undistributed income shall be  
23 distributed to the charitable trust. If there are no heirs, the  
24 balance of the principal balance, together with all undistributed  
25 income, shall be distributed to the charitable trust.



1           (11) In the event an account is established with the assets  
2 of the beneficiary by the beneficiary, a family member, the  
3 beneficiary's guardian, or pursuant to a court order, all in  
4 accordance with Title 42 of the United States Code Section  
5 1396p(d)(4)(C), then upon the death of the life beneficiary the  
6 state of Missouri shall receive all amounts remaining in the life  
7 beneficiary's account up to an amount equal to the total medical  
8 assistance paid on behalf of such life beneficiary under a state  
9 plan under Title 42 of the United States Code, and then to the  
10 extent there is any amount remaining in the life beneficiary's  
11 account, an amount equal to seventy-five percent of the principal  
12 balance shall be distributed to such person or persons who are  
13 the life beneficiary's heirs at law. If there are no heirs, the  
14 balance of the principal balance, together with all undistributed  
15 income, shall be distributed to the charitable trust.

16           (12) Notwithstanding the provisions of subdivisions (4) to  
17 (8) of this subsection to the contrary, the donor may voluntarily  
18 agree to a smaller percentage of the principal balance in any  
19 account established by such donor than is provided in this  
20 subsection to be returned to the donor or distributed to the  
21 successor trust, as the case may be; and a corresponding larger  
22 percentage of the principal balance in such account to be  
23 distributed either to the charitable trust or to a designated  
24 restricted account within the charitable trust.

25           (13) Upon receipt of a notice of withdrawal from a

1 designated cotrustee, other than the original donor, and a  
2 determination by the board of trustees that the reason for such  
3 withdrawal is good and sufficient, or upon the issuance of notice  
4 of termination by the board of trustees, the board of trustees  
5 shall distribute and pay over to the designated trustee of the  
6 successor trust the applicable portion of the principal balance  
7 as set forth in subdivision (7) of this subsection; provided,  
8 however, that court approval of distribution to a successor  
9 trustee shall be required in connection with any trust created  
10 pursuant to section 473.657, RSMo, or section 475.093, RSMo. The  
11 designated trustee of the successor trust shall hold, administer  
12 and distribute the principal and income of the successor trust,  
13 in the discretion of such trustee, for the maintenance, support,  
14 health, education and general well-being of the beneficiary,  
15 recognizing that it is the purpose of the successor trust to  
16 supplement, not replace, any government benefits for the  
17 beneficiary's basic support to which such beneficiary may be  
18 entitled and to increase the quality of such beneficiary's life  
19 by providing the beneficiary with those amenities which cannot  
20 otherwise be provided by public assistance or entitlements or  
21 other available sources. Permissible expenditures include, but  
22 are not limited to, more sophisticated dental, medical and  
23 diagnostic work or treatment than is otherwise available from  
24 public assistance, private rehabilitative training, supplementary  
25 education aid, entertainment, periodic vacations and outings,

1 expenditures to foster the interests, talents and hobbies of the  
2 beneficiary, and expenditures to purchase personal property and  
3 services which will make life more comfortable and enjoyable for  
4 the beneficiary but which will not defeat his or her eligibility  
5 for public assistance. Expenditures may include payment of the  
6 funeral and burial costs of the beneficiary. The designated  
7 trustee, in his or her discretion, may make payments from time to  
8 time for a person to accompany the beneficiary on vacations and  
9 outings and for the transportation of the beneficiary or of  
10 friends and relatives of the beneficiary to visit the  
11 beneficiary. Any undistributed income shall be added to the  
12 principal from time to time. Expenditures shall not be made for  
13 the primary support or maintenance of the beneficiary, including  
14 basic food, shelter and clothing, if, as a result, the  
15 beneficiary would no longer be eligible to receive public  
16 benefits or assistance to which the beneficiary is then entitled.  
17 After the death and burial of the beneficiary, the remaining  
18 balance of the successor trust shall be distributed to such  
19 person or persons as the donor shall have designated.

20 [(12)] (14) The charitable trust shall be administered as  
21 part of the family trust, but as a separate account. The income  
22 attributable to the charitable trust shall be used to provide  
23 benefits for individuals who have a disability or who are  
24 eligible for services provided by or through the department and  
25 who either have no immediate family or whose immediate family, in

1 the reasonable opinion of the trustees, is financially unable to  
2 make a contribution to the trust sufficient to provide benefits  
3 for such individuals, while maintaining such individuals'  
4 eligibility for government entitlement funding. The trustees may  
5 from time to time determine to use part of the principal of the  
6 charitable trust to provide such benefits. As used in this  
7 section, the term "immediate family" includes parents, children  
8 and siblings. The individuals to be beneficiaries of the  
9 charitable trust shall be recommended to the trustees by the  
10 department and others from time to time. The trustees shall  
11 annually [agree on] determine the amount of charitable trust  
12 income to be used to provide benefits and the nature and type of  
13 benefits to be provided for each identified beneficiary of the  
14 charitable trust. Any income not used shall be added to  
15 principal annually.

16 (15) Any person, with the consent of the board of trustees,  
17 may establish a restricted account within the charitable trust  
18 and shall be permitted to determine, with the consent of the  
19 board of trustees, the beneficiaries of such restricted account  
20 provided such beneficiaries qualify as participants of the trust  
21 as set forth in subsection 1 of section 402.205.

22 402.217. 1. No beneficiary shall have any vested or  
23 property rights or interests in the family trust, nor shall any  
24 beneficiary have the power to anticipate, assign, convey,  
25 alienate, or otherwise encumber any interest in the income or

1 principal of the family trust , nor shall such income or the  
2 principal or any interest of any beneficiary thereunder be liable  
3 for any debt incurred by such beneficiary, nor shall the  
4 principal or income of the family trust be subject to seizure by  
5 any creditor or any beneficiary under any writ or proceeding in  
6 law or in equity.

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

22 431.056. 1. A minor shall be qualified and competent to  
23 contract for housing, employment, purchase of an automobile,  
24 receipt of a student loan, admission to high school or  
25 postsecondary school, obtaining medical care, establishing a bank

1 account and admission to a shelter for victims of domestic  
2 violence, as defined in section 455.200, RSMo, or a homeless  
3 shelter if:

4 (1) The minor is sixteen or seventeen years of age; and

5 (2) The minor is homeless, as defined in [subdivisions (1),  
6 (2) and (3) of] subsection 1 of section 167.020, RSMo, or a  
7 victim of domestic violence, as defined in section 455.200, RSMo,  
8 unless the child is under the supervision of the children's  
9 division [of family services] or the jurisdiction of the juvenile  
10 court; and

11 (3) The minor is self-supporting, such that the minor is  
12 without the physical or financial support of a parent or legal  
13 guardian; and

14 (4) The minor's [parents have] parent or legal guardian has  
15 consented to the minor living independent of the parents' or  
16 guardians' control. Consent may be expressed or implied, such  
17 that:

18 (1) Expressed consent is any verbal or written statement  
19 made by the parents or guardian of the minor displaying approval  
20 or agreement that the minor may live independently of the  
21 parent's or guardian's control;

22 (2) Implied consent is any action made by the parent or  
23 guardian of the minor that indicates the parent or guardian is  
24 unwilling or unable to adequately care for the minor. Such  
25 actions may include, but are not limited to:

1       (a) Barring the minor from the home or otherwise indicating  
2       that the minor is not welcome to stay;

3       (b) Refusing to provide any or all financial support for  
4       the minor; or

5       (c) Abusing or neglecting the minor, as defined in section  
6       210.110, RSMo.

7       452.375. 1. As used in this chapter, unless the context  
8       clearly indicates otherwise:

9       (1) "Custody", means joint legal custody, sole legal  
10       custody, joint physical custody or sole physical custody or any  
11       combination thereof;

12       (2) "Joint legal custody" means that the parents share the  
13       decision-making rights, responsibilities, and authority relating  
14       to the health, education and welfare of the child, and, unless  
15       allocated, apportioned, or decreed, the parents shall confer with  
16       one another in the exercise of decision-making rights,  
17       responsibilities, and authority;

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

24       (4) "Third-party custody" means a third party designated as  
25       a legal and physical custodian pursuant to subdivision (5) of

1 subsection 5 of this section.

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

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

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

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

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

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

19 (6) The mental and physical health of all individuals  
20 involved, including any history of abuse of any individuals  
21 involved. If the court finds that a pattern of domestic violence  
22 has occurred, and, if the court also finds that awarding custody  
23 to the abusive parent is in the best interest of the child, then  
24 the court shall enter written findings of fact and conclusions of  
25 law. Custody and visitation rights shall be ordered in a manner



1 that best protects the child and any other child or children for  
2 whom the parent has custodial or visitation rights, and the  
3 parent or other family or household member who is the victim of  
4 domestic violence from any further harm;

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

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

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

12 3. In any court proceedings relating to custody of a child,  
13 the court shall not award custody or unsupervised visitation of a  
14 child to a parent if such parent or any person residing with such  
15 parent has been found guilty of, or pled guilty to, a felony  
16 violation of chapter 566, RSMo, except for section 566.034, RSMo,  
17 when [the] a child was the victim, or a violation of chapter 568,  
18 RSMo, except for section 568.040, RSMo, when [the] a child was  
19 the victim, or an offense committed in another state when a child  
20 is the victim, that would be a felony violation of chapter 566,  
21 RSMo, except for section 566.034, RSMo, or chapter 568, RSMo,  
22 except for section 568.040, RSMo, if committed in Missouri.

23 4. The general assembly finds and declares that it is the  
24 public policy of this state that frequent, continuing and

1 meaningful contact with both parents after the parents have  
2 separated or dissolved their marriage is in the best interest of  
3 the child, except for cases where the court specifically finds  
4 that such contact is not in the best interest of the child, and  
5 that it is the public policy of this state to encourage parents  
6 to participate in decisions affecting the health, education and  
7 welfare of their children, and to resolve disputes involving  
8 their children amicably through alternative dispute resolution.  
9 In order to effectuate these policies, the court shall determine  
10 the custody arrangement which will best assure both parents  
11 participate in such decisions and have frequent, continuing and  
12 meaningful contact with their children so long as it is in the  
13 best interests of the child.

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

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

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

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

3           (4) Sole custody to either parent; or

4           (5) Third-party custody or visitation:

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

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

17           6. If the parties have not agreed to a custodial  
18 arrangement, or the court determines such arrangement is not in  
19 the best interest of the child, the court shall include a written  
20 finding in the judgment or order based on the public policy in  
21 subsection 4 of this section and each of the factors listed in  
22 subdivisions (1) to (8) of subsection 2 of this section detailing  
23 the specific relevant factors that made a particular arrangement  
24 in the best interest of the child. If a proposed custodial  
25 arrangement is rejected by the court, the court shall include a

1 written finding in the judgment or order detailing the specific  
2 relevant factors resulting in the rejection of such arrangement.

3 7. Upon a finding by the court that either parent has  
4 refused to exchange information with the other parent, which  
5 shall include but not be limited to information concerning the  
6 health, education and welfare of the child, the court shall order  
7 the parent to comply immediately and to pay the prevailing party  
8 a sum equal to the prevailing party's cost associated with  
9 obtaining the requested information, which shall include but not  
10 be limited to reasonable attorney's fees and court costs.

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

15 9. Any judgment providing for custody shall include a  
16 specific written parenting plan setting forth the terms of such  
17 parenting plan arrangements specified in subsection 7 of section  
18 452.310. Such plan may be a parenting plan submitted by the  
19 parties pursuant to section 452.310 or, in the absence thereof, a  
20 plan determined by the court, but in all cases, the custody plan  
21 approved and ordered by the court shall be in the court's  
22 discretion and shall be in the best interest of the child.

23 10. Unless a parent has been denied custody rights pursuant  
24 to this section or visitation rights under section 452.400, both  
25 parents shall have access to records and information pertaining

1 to a minor child, including, but not limited to, medical, dental,  
2 and school records. If the parent without custody has been  
3 granted restricted or supervised visitation because the court has  
4 found that the parent with custody or [the] any child has been  
5 the victim of domestic violence, as defined in section 455.200,  
6 RSMo, by the parent without custody, the court may order that the  
7 reports and records made available pursuant to this subsection  
8 not include the address of the parent with custody or the child.  
9 Unless a parent has been denied custody rights pursuant to this  
10 section or visitation rights under section 452.400, any judgment  
11 of dissolution or other applicable court order shall specifically  
12 allow both parents access to such records and reports.

13 11. Except as otherwise precluded by state or federal law,  
14 if any individual, professional, public or private institution or  
15 organization denies access or fails to provide or disclose any  
16 and all records and information, including, but not limited to,  
17 past and present dental, medical and school records pertaining to  
18 a minor child, to either parent upon the written request of such  
19 parent, the court shall, upon its finding that the individual,  
20 professional, public or private institution or organization  
21 denied such request without good cause, order that party to  
22 comply immediately with such request and to pay to the prevailing  
23 party all costs incurred, including, but not limited to,  
24 attorney's fees and court costs associated with obtaining the  
25 requested information.

1           12. An award of joint custody does not preclude an award of  
2 child support pursuant to section 452.340 and applicable supreme  
3 court rules. The court shall consider the factors contained in  
4 section 452.340 and applicable supreme court rules in determining  
5 an amount reasonable or necessary for the support of the child.

6           13. If the court finds that domestic violence or abuse, as  
7 defined in sections 455.010 and 455.501, RSMo, has occurred, the  
8 court shall make specific findings of fact to show that the  
9 custody or visitation arrangement ordered by the court best  
10 protects the child and the parent or other family or household  
11 member who is the victim of domestic violence or abuse, as  
12 defined in sections 455.010 and 455.501, RSMo, and any other  
13 children for whom such parent has custodial or visitation rights  
14 from any further harm.

15           452.400. 1. A parent not granted custody of the child is  
16 entitled to reasonable visitation rights unless the court finds,  
17 after a hearing, that visitation would endanger the child's  
18 physical health or impair his or her emotional development. The  
19 court shall enter an order specifically detailing the visitation  
20 rights of the parent without physical custody rights to the child  
21 and any other children for whom such parent has custodial or  
22 visitation rights. In determining the granting of visitation  
23 rights, the court shall consider evidence of domestic violence.  
24 If the court finds that domestic violence has occurred, the court  
25 may find that granting visitation to the abusive party is in the

1 best interests of the child. The court shall not grant  
2 visitation to the parent not granted custody if such parent or  
3 any person residing with such parent has been found guilty of or  
4 pled guilty to a felony violation of chapter 566, RSMo, except  
5 for section 566.034, RSMo, when [the] a child was the victim, or  
6 a violation of chapter 568, RSMo, except for section 568.040,  
7 RSMo, when [the] a child was the victim, or an offense committed  
8 in another state[, ] when [the] a child is the victim, that would  
9 be a felony violation of chapter 566, RSMo, except for section  
10 566.034, RSMo, or chapter 568, RSMo, except for section 568.040,  
11 RSMo, if committed in Missouri. The court shall consider the  
12 parent's history of inflicting, or tendency to inflict, physical  
13 harm, bodily injury, assault, or the fear of physical harm,  
14 bodily injury, or assault on other persons and shall grant  
15 visitation in a manner that best protects the child and the  
16 parent or other family or household member who is the victim of  
17 domestic violence, and any other children for whom the parent has  
18 custodial or visitation rights from any further harm. The court,  
19 if requested by a party, shall make specific findings of fact to  
20 show that the visitation arrangements made by the court best  
21 protect the child or the parent or other family or household  
22 member who is the victim of domestic violence, or any other child  
23 for whom the parent has custodial or visitation rights from any  
24 further harm.

25 2. The court may modify an order granting or denying

1 visitation rights whenever modification would serve the best  
2 interests of the child, but the court shall not restrict a  
3 parent's visitation rights unless it finds that the visitation  
4 would endanger the child's physical health or impair his or her  
5 emotional development. In any proceeding modifying visitation  
6 rights, the court shall not grant unsupervised visitation to a  
7 parent if the parent or any person residing with such parent has  
8 been found guilty of or pled guilty to a felony violation of  
9 chapter 566, RSMo, except for section 566.034, RSMo, when a child  
10 was the victim, or a violation of chapter 568, RSMo, except for  
11 section 568.040, RSMo, when a child was the victim, or an offense  
12 committed in another state when a child is the victim, that would  
13 be a felony violation of chapter 566, RSMo, except for section  
14 566.034, RSMo, or chapter 568, RSMo, except for section 568.040,  
15 RSMo, if committed in Missouri. When a court restricts a  
16 parent's visitation rights or when a court orders supervised  
17 visitation because of allegations of abuse or domestic violence,  
18 a showing of proof of treatment and rehabilitation shall be made  
19 to the court before unsupervised visitation may be ordered.  
20 "Supervised visitation", as used in this section, is visitation  
21 which takes place in the presence of a responsible adult  
22 appointed by the court for the protection of the child.

23 3. The court shall mandate compliance with its order by all  
24 parties to the action, including parents, children and third  
25 parties. In the event of noncompliance, the aggrieved person may



1 file a verified motion for contempt. If custody, visitation or  
2 third-party custody is denied or interfered with by a parent or  
3 third party without good cause, the aggrieved person may file a  
4 family access motion with the court stating the specific facts  
5 which constitute a violation of the judgment of dissolution or  
6 legal separation. The state courts administrator shall develop a  
7 simple form for pro se motions to the aggrieved person, which  
8 shall be provided to the person by the circuit clerk. Clerks,  
9 under the supervision of a circuit clerk, shall explain to  
10 aggrieved parties the procedures for filing the form. Notice of  
11 the fact that clerks will provide such assistance shall be  
12 conspicuously posted in the clerk's offices. The location of the  
13 office where the family access motion may be filed shall be  
14 conspicuously posted in the court building. The performance of  
15 duties described in this section shall not constitute the  
16 practice of law as defined in section 484.010, RSMo. Such form  
17 for pro se motions shall not require the assistance of legal  
18 counsel to prepare and file. The cost of filing the motion shall  
19 be the standard court costs otherwise due for instituting a civil  
20 action in the circuit court.

21 4. Within five court days after the filing of the family  
22 access motion pursuant to subsection 3 of this section, the clerk  
23 of the court shall issue a summons pursuant to applicable state  
24 law, and applicable local or supreme court rules. A copy of the  
25 motion shall be personally served upon the respondent by personal

1 process server as provided by law or by any sheriff. Such  
2 service shall be served at the earliest time and shall take  
3 priority over service in other civil actions, except those of an  
4 emergency nature or those filed pursuant to chapter 455, RSMo.

5 The motion shall contain the following statement in boldface  
6 type: "PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO  
7 RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF  
8 SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN  
9 THE FOLLOWING:

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

13 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE  
14 THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A  
15 CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

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

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

20 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO  
21 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED  
22 PARTY AND THE CHILD; AND

23 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE  
24 EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY  
25 INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF

1 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY.".

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

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

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

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

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

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

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

25 7. The reasonable expenses incurred as a result of denial

1 or interference with custody or visitation, including attorney's  
2 fees and costs of a proceeding to enforce visitation rights,  
3 custody or third-party custody, shall be assessed, if requested  
4 and for good cause, against the parent or party who unreasonably  
5 denies or interferes with visitation, custody or third-party  
6 custody. In addition, the court may utilize any and all powers  
7 relating to contempt conferred on it by law or rule of the  
8 Missouri supreme court.

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

14 9. Motions filed pursuant to this section shall not be  
15 deemed an independent civil action from the original action  
16 pursuant to which the judgment or order sought to be enforced was  
17 entered.

18 453.110. 1. No person, agency, organization or institution  
19 shall surrender custody of a minor child, or transfer the custody  
20 of such a child to another, and no person, agency, organization  
21 or institution shall take possession or charge of a minor child  
22 so transferred, without first having filed a petition before the  
23 circuit court sitting as a juvenile court of the county where the  
24 child may be, praying that such surrender or transfer may be  
25 made, and having obtained such an order from such court approving

1 or ordering transfer of custody.

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

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

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

18 5. This section shall not be construed to prohibit any  
19 parent, agency, organization or institution from placing a child  
20 [in a family home] with another person for care if the right to  
21 supervise the care of the child and to resume custody thereof is  
22 retained, or from placing a child with a licensed foster home  
23 within the state through a child placing agency licensed by this  
24 state as part of a preadoption placement.

25 6. After the filing of a petition for the transfer of

1 custody for the purpose of adoption, the court may enter an order  
2 of transfer of custody if the court finds all of the following:

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

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

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

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

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

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

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

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

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

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

24 (3) Parental rights have been terminated pursuant to  
25 section 211.444 or 211.447, RSMo.

1           475.024. A parent of a minor, by a properly executed power  
2 of attorney, may delegate to another [individual,] person for a  
3 period not exceeding one year, any of his or her powers regarding  
4 care or custody of the minor child, except his or her power to  
5 consent to marriage or adoption of the minor child.

6           491.075. 1. A statement made by a child under the age of  
7 [twelve] fourteen relating to an offense under chapter 565, 566  
8 or 568, RSMo, performed with or on a child by another, not  
9 otherwise admissible by statute or court rule, is admissible in  
10 evidence in criminal proceedings in the courts of this state as  
11 substantive evidence to prove the truth of the matter asserted  
12 if:

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

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

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

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

23           2. Notwithstanding subsection 1 of this section or any  
24 provision of law or rule of evidence requiring corroboration of  
25 statements, admissions or confessions of the defendant, and

1 notwithstanding any prohibition of hearsay evidence, a statement  
2 by a child when under the age of [twelve] fourteen who is alleged  
3 to be victim of an offense under chapter 565, 566 or 568, RSMo,  
4 is sufficient corroboration of a statement, admission or  
5 confession regardless of whether or not the child is available to  
6 testify regarding the offense.

7 3. A statement may not be admitted under this section  
8 unless the prosecuting attorney makes known to the accused or  
9 [his] the accused's counsel his or her intention to offer the  
10 statement and the particulars of the statement sufficiently in  
11 advance of the proceedings to provide the accused or [his] the  
12 accused's counsel with a fair opportunity to prepare to meet the  
13 statement.

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

17 492.304. 1. In addition to the admissibility of a  
18 statement under the provisions of section 492.303, the visual and  
19 aural recording of a verbal or nonverbal statement of a child  
20 when under the age of [twelve] fourteen who is alleged to be a  
21 victim of an offense under the provisions of chapter 565, 566 or  
22 568, RSMo, is admissible into evidence if:

23 (1) No attorney for either party was present when the  
24 statement was made; except that, for any statement taken at a  
25 state-funded child assessment center as provided for in



1     subsection 2 of section 210.001, RSMo, an attorney representing  
2     the state of Missouri in a criminal investigation may, as a  
3     member of a multidisciplinary investigation team, observe the  
4     taking of such statement, but such attorney shall not be present  
5     in the room where the interview is being conducted;

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

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

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

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

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

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

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

25            3. If the visual and aural recording of a verbal or

1 nonverbal statement of a child is admissible under this section  
2 and the child testifies at the proceeding, it shall be admissible  
3 in addition to the testimony of the child at the proceeding  
4 whether or not it repeats or duplicates the child's testimony.

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

9 537.046. 1. As used in this section, the following terms  
10 mean:

11 (1) "Childhood sexual abuse", any act committed by the  
12 defendant against the plaintiff which act occurred when the  
13 plaintiff was under the age of eighteen years and which act would  
14 have been a violation of section 566.030, 566.040, 566.050,  
15 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120,  
16 RSMo, or section 568.020, RSMo;

17 (2) "Injury" or "illness", either a physical injury or  
18 illness or a psychological injury or illness. A psychological  
19 injury or illness need not be accompanied by physical injury or  
20 illness.

21 2. In any civil action for recovery of damages [suffered as  
22 a result of childhood] for injury or illness caused by child  
23 sexual abuse, the time for commencement of the action shall be  
24 within [five] twelve years of the date the plaintiff attains the  
25 age of eighteen or within three years of the date the plaintiff

1 discovers or reasonably should have discovered that the injury or  
2 illness was caused by child sexual abuse, whichever later occurs.

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

8 630.097. 1. The department of mental health shall develop,  
9 in partnership with all departments represented on the children's  
10 services commission, a unified accountable comprehensive  
11 children's mental health service system. The department of  
12 mental health shall establish a state interagency comprehensive  
13 children's mental health service system team comprised of  
14 representation from:

15 (1) Family run organizations and family members;

16 (2) Child advocate organizations;

17 (3) The department of health and senior services;

18 (4) The department of social services' children's division,  
19 division of youth services, and the division of medical services;

20 (5) The department of elementary and secondary education;

21 (6) The department of mental health's division of alcohol  
22 and drug abuse, division of mental retardation and developmental  
23 disabilities, and the division of comprehensive psychiatric  
24 services;

25 (7) The department of public safety;

1       (8) The office of state courts administrator;

2       (9) The juvenile justice system; and

3       (10) Local representatives of the member organizations of  
4       the state team to serve children with emotional and behavioral  
5       disturbance problems, developmental disabilities, and substance  
6       abuse problems;

7       The team shall be called "The Comprehensive System Management  
8       Team". There shall be a stakeholder advisory committee to  
9       provide input to the comprehensive system management team to  
10       assist the departments in developing strategies and to ensure  
11       positive outcomes for children are being achieved. The  
12       department of mental health shall obtain input from appropriate  
13       consumer and family advocates when selecting family members for  
14       the comprehensive system management team, in consultation with  
15       the departments that serve on the children's services commission.  
16       The implementation of a comprehensive system shall include all  
17       state agencies and system partner organizations involved in the  
18       lives of the children served. These system partners may include  
19       private and not-for-profit organizations and representatives from  
20       local system of care teams and these partners may serve on the  
21       stakeholder advisory committee. The department of mental health  
22       shall promulgate rules for the implementation of this section in  
23       consultation with all of the departments represented in the  
24       children's services commission.

1        2. The department of mental health shall, in partnership  
2 with the departments serving on the children's services  
3 commission and the stakeholder advisory committee, develop a  
4 state comprehensive children's mental health service system plan.  
5 This plan shall be developed and submitted to the governor, the  
6 general assembly, and children's services commission by December,  
7 2004. There shall be subsequent annual reports that include  
8 progress toward outcomes, monitoring, changes in populations and  
9 services, and emerging issues. The plan shall:

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

13        (2) Define the comprehensive array of services including  
14 services such as intensive home-based services, early  
15 intervention services, family support services, respite services,  
16 and behavioral assistance services;

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

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

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

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

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

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

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

8       (10) Describe the roles and responsibilities of the state  
9 and local child serving agencies in implementing the  
10 comprehensive children's mental health care system.

11       3. The comprehensive system management team shall  
12 collaborate to develop uniform language to be used in intake and  
13 throughout provision of services.

14       4. The comprehensive children's mental health services  
15 system shall:

16       (1) Be child centered, family focused, strength-based, and  
17 family driven, with the needs of the child and family dictating  
18 the types and mix of services provided, and shall include the  
19 families as full participants in all aspects of the planning and  
20 delivery of services;

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

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

1       (4) Emphasize prevention, early identification, and  
2 intervention;

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

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

6       (b) Address the unique physical, behavioral, emotional,  
7 social, developmental, and educational needs of children;

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

12       (d) Provide a comprehensive array of services through an  
13 integrated service plan;

14       (e) Provide services in the least restrictive most  
15 appropriate environment that meets the needs of the child; and

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

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

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

21       (b) Prevent further deterioration;

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

24       (a) Access to private insurance coverage;

25       (b) Public funding, including:

1           a. Assuring that funding follows children across  
2 departments; and  
3           b. Maximizing federal financial participation;  
4           (c) Private funding and services;  
5           (8) Assure a smooth transition from child to adult mental  
6 health services when needed;  
7           (9) Coordinate a service delivery system inclusive of  
8 services, providers, and schools that serve children and youth  
9 with emotional and behavioral disturbance problems, and their  
10 families through state agencies that serve on the state  
11 comprehensive children's management team; and  
12           (10) Be outcome based.

13           5. By August 28, 2007, and periodically thereafter, the  
14 children's services commission shall conduct and distribute to  
15 the general assembly an evaluation of the implementation and  
16 effectiveness of the comprehensive children's mental health care  
17 system, including an assessment of family satisfaction and the  
18 progress of achieving outcomes.

19           630.210. 1. The director shall determine the maximum  
20 amount for services which shall be charged in each of the  
21 residential facilities, day programs or specialized services  
22 operated or funded by the department for full-time or part-time  
23 inpatient, resident or outpatient evaluation, care, treatment,  
24 habilitation, rehabilitation or other service rendered to persons  
25 affected by mental disorder, mental illness, mental retardation,



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

15 2. The director shall apply the standard means test  
16 annually and may make application of the test upon his own  
17 initiative or upon request of an interested party whenever  
18 evidence is offered tending to show that the current support  
19 status of any patient, resident or client is no longer proper.  
20 Any change of support status shall be retroactive to the date of  
21 application or request for review. If the persons responsible to  
22 pay under section 630.205 or 552.080, RSMo, refuse to cooperate  
23 in providing information necessary to properly apply the test or  
24 if retroactive benefits are paid on behalf of the patient,  
25 resident or client, the charges may be retroactive to a date

1 prior to the date of application or request for review. The  
2 decision of the director in determining the amount to be charged  
3 for services to a patient, resident or client shall be final.  
4 Appeals from the determination may be taken to the circuit court  
5 of Cole County or the county where the person responsible for  
6 payment resides in the manner provided by chapter 536, RSMo.

7 3. The department shall not pay for services provided to a  
8 patient, resident or client who is not domiciled in Missouri  
9 unless the state is fully reimbursed for the services; except  
10 that the department may pay for services provided to a transient  
11 person for up to thirty days pending verification of his  
12 domiciliary state, and for services provided for up to thirty  
13 days in an emergency situation. The director shall promulgate  
14 rules for determination of the domiciliary state of any patient,  
15 resident or client receiving services from a facility, program or  
16 service operated or funded by the department.

17 4. Whenever a patient, resident or client is receiving  
18 services from a residential facility, day program or specialized  
19 service operated or funded by the department, and the state,  
20 county, municipality, parent, guardian or other person  
21 responsible for support of the patient, resident or client fails  
22 to pay any installment required to be paid for support, the  
23 department or the residential facility, day program or  
24 specialized service may discharge the patient, resident or client  
25 as provided by chapter 31, RSMo. The patient, resident or client

1 shall not be discharged under this subsection until the final  
2 disposition of any appeal filed under subsection 2 of this  
3 section.

4 5. The standard means test may be waived for a child in  
5 need of mental health services to avoid inappropriate custody  
6 transfers to the children's division. The department of mental  
7 health shall notify the child's parent or custodian that the  
8 standard means test may be waived. The department of mental  
9 health shall promulgate rules for waiving the standard means  
10 test. Any rule or portion of a rule, as that term is defined in  
11 section 536.010, RSMo, that is created under the authority  
12 delegated in this section shall become effective only if it  
13 complies with and is subject to all of the provisions of chapter  
14 536, RSMo, and, if applicable, section 536.028, RSMo. This  
15 section and chapter 536, RSMo, are nonseverable and if any of the  
16 powers vested with the general assembly pursuant to chapter 536,  
17 RSMo, to review, to delay the effective date, or to disapprove  
18 and annul a rule are subsequently held unconstitutional, then the  
19 grant of rulemaking authority and any rule proposed or adopted  
20 after August 28, 2004, shall be invalid and void.

21 701.336. 1. The department of health and senior services  
22 shall cooperate with the federal government in implementing  
23 subsections (d) and (e) of 15 U.S.C. 2685 to establish public  
24 education activities and an information clearinghouse regarding  
25 childhood lead poisoning. The department may develop additional

1 educational materials on lead hazards to children, lead poisoning  
2 prevention, lead poisoning screening, lead abatement and  
3 disposal, and on health hazards during abatement.

4       2. The department of health and senior services and the  
5 department of social services, in collaboration with related not-  
6 for-profit organizations, health maintenance organizations, and  
7 the Missouri consolidated health care plan, shall devise an  
8 educational strategy to increase the number of children who are  
9 tested for lead poisoning under the Medicaid program. The goal  
10 of the educational strategy is to have seventy-five percent of  
11 the children who receive Medicaid tested for lead poisoning. The  
12 educational strategy shall be implemented over a three-year  
13 period and shall be in accordance with all federal laws and  
14 regulations.

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

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

25       (1) The parents have continuously maintained joint domicile

1 for a period of at least six months prior to the alleged incident  
2 or the parents are maintaining separate households; and

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

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

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

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

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

1 child.

2 Section 2. If any provision of this act is found by a court  
3 of competent jurisdiction to be invalid or unconstitutional it is  
4 the stated intent of the legislature that the legislature would  
5 have approved the remaining portions of the act, and the  
6 remaining portions of the act shall remain in full force and  
7 effect.

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

20 2. The child abuse, custody and neglect  
21 commission shall be composed of twelve  
22 members to be appointed by the governor,  
23 including a county prosecutor, a law  
24 enforcement officer, a juvenile officer, a  
25 certified guardian ad litem, a juvenile court  
26 judge, a member of the clergy, a  
27 psychologist, a pediatrician, an educator,  
28 the chairman of the children's services  
29 commission, a division of family services  
30 designee, and one citizen of the state of  
31 Missouri, chosen to reflect the racial  
32 composition of the state, to serve four-year  
33 terms and of the members first appointed,  
34 four shall serve for a term of two years,  
35 four shall serve for a term of three years,  
36 and four shall serve for a term of four  
37 years.

38 3. The commission shall make its first  
39 report to the governor and the general  
40 assembly by February 1, 2002, and any  
41 subsequent reports shall be made to the  
42 governor, the chief justice of the supreme  
43 court and the general assembly as necessary.

1           4. All members shall serve without  
2       compensation but shall be reimbursed for all  
3       actual and necessary expenses incurred in the  
4       performance of their official duties for the  
5       commission.  
6           5. The office of the governor shall  
7       provide funding, administrative support, and  
8       staff for the effective operation of the  
9       commission.  
10          6. This section shall expire on August  
11       28, 2004.]

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