

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR  
**HOUSE BILL NO. 568**

**93RD GENERAL ASSEMBLY**

1225L.10T

2005

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**AN ACT**

To repeal sections 210.110, 210.112, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, RSMo, and to enact in lieu thereof ten new sections relating to protection of children.

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

Section A. Sections 210.110, 210.112, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 167.229, 210.110, 210.112, 210.114, 210.117, 211.037, 211.038, 452.375, 452.400, and 452.490, to read as follows:

**167.229. 1. The department of elementary and secondary education shall establish a "Model School Wellness Program", and any moneys appropriated, other than general revenue, by the general assembly for this program shall be used by selected school districts to establish school-based pilot programs that focus on encouraging students to establish and maintain healthy lifestyles. The moneys appropriated shall be from the Child Nutrition and WIC Reauthorization federal grant money. These programs shall include tobacco prevention education and the promotion of balanced dietary patterns and physical activity to prevent becoming overweight or obese, and discussion of serious and chronic medical conditions that are associated with being overweight. The content of these programs shall address state and national standards and guidelines established by the No**

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

11 **Child Left Behind Act, the Healthy People 2010 Leading Health Indicators as compiled by**  
12 **the National Center for Health Statistics, and the Produce for Better Health Foundation's**  
13 **"5 A Day, The Color Way" program.**

14 **2. School districts may apply for one-year grants for school year 2005-2006 under**  
15 **this section. The department shall establish selection criteria and methods for distribution**  
16 **of funds to school districts applying for such funds. The department shall promulgate**  
17 **rules to implement the provisions of this section.**

18 **3. A school district that receives a grant under this section shall use the funds to**  
19 **plan and implement the program in a diverse sampling of schools in each district. The**  
20 **programs shall address students' academic success as well as health concerns, and**  
21 **encourage links between the school and home settings to promote active healthy lifestyles**  
22 **across the students' learning environments. The tobacco prevention initiative shall focus**  
23 **on grades four and five to target students before they transition into middle grades. The**  
24 **obesity prevention programs will cover sequential wellness education across grades**  
25 **kindergarten through fifth grades. These programs shall:**

26 **(1) Be multidisciplinary, addressing academic standards in language arts, math,**  
27 **and health;**

28 **(2) Provide multimedia resources that engage the students;**

29 **(3) Be evidence-based showing successful implementation including positive**  
30 **changes in desired outcomes, such as changes in body mass index or attitudes towards**  
31 **tobacco use;**

32 **(4) Be able to be integrated in to the core classroom at the elementary level; and**

33 **(5) Be sustainable and provide open web-based resources to teachers and students**  
34 **across Missouri.**

35 **4. Hands-on professional development opportunities shall be provided in local**  
36 **districts for the teachers who will be implementing the program. Ongoing support shall**  
37 **be provided to the teachers and schools during the pilot period.**

38 **5. Following the completion of the 2005-2006 school year, the department shall**  
39 **evaluate the effectiveness of the model school wellness program in increasing knowledge,**  
40 **changing body mass index, improving attitudes and behaviors of students related to**  
41 **nutrition, physical activity, or tobacco use.**

42 **6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
43 **that is created under the authority delegated in this section shall become effective only if**  
44 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
45 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
46 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**

47 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
48 held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
49 adopted after August 28, 2005, shall be invalid and void.

50 **7. Pursuant to section 23.353, RSMo, of the Missouri sunset act:**

51 **(1) The provisions of this section shall automatically sunset six years after the**  
52 **effective date of this section unless reauthorized by an act of the general assembly; and**

53 **(2) If such program is reauthorized, the program authorized under this section**  
54 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
55 **section; and**

56 **(3) This section shall terminate on September 1 of the calendar year immediately**  
57 **following the calendar year in which the program authorized under this section is sunset.**

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

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

7 **(2) "Assessment and treatment services for children under ten years old", an**  
8 **approach to be developed by the children's division which will recognize and treat the**  
9 **specific needs of at-risk and abused or neglected children under the age of ten. The**  
10 **developmental and medical assessment may be a broad physical, developmental, and**  
11 **mental health screening to be completed within thirty days of a child's entry into custody**  
12 **and every six months thereafter as long as the child remains in care. Screenings may be**  
13 **offered at a centralized location and include, at a minimum, the following:**

14 **(a) Complete physical to be performed by a pediatrician familiar with the effects**  
15 **of abuse and neglect on young children;**

16 **(b) Developmental, behavioral, and emotional screening in addition to early**  
17 **periodic screening, diagnosis, and treatment services, including a core set of standardized**  
18 **and recognized instruments as well as interviews with the child and appropriate caregivers.**  
19 **The screening battery may be performed by a licensed mental health professional familiar**  
20 **with the effects of abuse and neglect on young children, who will then serve as the liaison**  
21 **between all service providers in ensuring that needed services are provided. Such**  
22 **treatment services may include in-home services, out of home placement, intensive twenty-**  
23 **four hour treatment services, family counseling, parenting training and other best**  
24 **practices.**

25

26 **Children whose screenings indicate an area of concern may complete a comprehensive, in-**  
27 **depth health, psycho-diagnostic, or developmental assessment within sixty days of entry**  
28 **into custody.**

29 (3) "Central registry", a registry of persons where the division has found probable cause  
30 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004,  
31 or a court has substantiated through court adjudication that the individual has committed child  
32 abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to  
33 section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than  
34 eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than  
35 eighteen years of age, or other crime pursuant to chapter 566, RSMo, if the victim is a child less  
36 than eighteen years of age and the perpetrator is twenty-one years of age or older, section  
37 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030,  
38 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or  
39 an attempt to commit any such crimes. Any persons placed on the registry prior to August 28,  
40 2004, shall remain on the registry for the duration of time required by section 210.152;

41 [(3)] (4) "Child", any person, regardless of physical or mental condition, under eighteen  
42 years of age;

43 [(4)] (5) "Children's services providers and agencies", any public, quasi- public, or  
44 private entity with the appropriate and relevant training and expertise in delivering services to  
45 children and their families as determined by the children's division, and capable of providing  
46 direct services and other family services for children in the custody of the children's division or  
47 any such entities or agencies that are receiving state moneys for such services;

48 [(5)] (6) "Director", the director of the Missouri children's division within the department  
49 of social services;

50 [(6)] (7) "Division", the Missouri children's division within the department of social  
51 services;

52 [(7)] (8) "Family assessment and services", an approach to be developed by the children's  
53 division which will provide for a prompt assessment of a child who has been reported to the  
54 division as a victim of abuse or neglect by a person responsible for that child's care, custody or  
55 control and of that child's family, including risk of abuse and neglect and, if necessary, the  
56 provision of community-based services to reduce the risk and support the family;

57 [(8)] (9) "Family support team meeting" or "team meeting", a meeting convened by the  
58 division or children's services provider in behalf of the family and/or child for the purpose of  
59 determining service and treatment needs, determining the need for placement and developing a  
60 plan for reunification or other permanency options, determining the appropriate placement of the  
61 child, evaluating case progress, and establishing and revising the case plan;

62 [(9)] (10) "Investigation", the collection of physical and verbal evidence to determine if  
63 a child has been abused or neglected;

64 [(10)] (11) "Jail or detention center personnel", employees and volunteers working in any  
65 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is  
66 provided to persons who are being held under custody of the law;

67 [(11)] (12) "Neglect", failure to provide, by those responsible for the care, custody, and  
68 control of the child, the proper or necessary support, education as required by law, nutrition or  
69 medical, surgical, or any other care necessary for the child's well-being;

70 [(12)] (13) "Preponderance of the evidence", that degree of evidence that is of greater  
71 weight or more convincing than the evidence which is offered in opposition to it or evidence  
72 which as a whole shows the fact to be proved to be more probable than not;

73 [(13)] (14) "Probable cause", available facts when viewed in the light of surrounding  
74 circumstances which would cause a reasonable person to believe a child was abused or  
75 neglected;

76 [(14)] (15) "Report", the communication of an allegation of child abuse or neglect to the  
77 division pursuant to section 210.115;

78 [(15)] (16) "Those responsible for the care, custody, and control of the child", those  
79 included but not limited to the parents or guardian of a child, other members of the child's  
80 household, or those exercising supervision over a child for any part of a twenty-four-hour day.  
81 Those responsible for the care, custody and control shall also include any adult who, based on  
82 relationship to the parents of the child, members of the child's household or the family, has  
83 access to the child.

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

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

6 (2) Providers of direct services to children and their families will be evaluated in a  
7 uniform and consistent basis;

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

10 (4) Any provider of direct services to children and families shall have the appropriate  
11 and relevant training, education, and expertise to provide the highest quality of services possible  
12 which shall be consistent with the federal standards, but not less than the standards and policies  
13 used by the children's division as of January 1, 2004.

14           2. On or before July 1, 2005, and subject to appropriations, the children's division and  
15 any other state agency deemed necessary by the division shall, in consultation with the  
16 community and providers of services, enter into and implement contracts with qualified  
17 children's services providers and agencies to provide a comprehensive and deliberate system of  
18 service delivery for children and their families. Contracts shall be awarded through a  
19 competitive process and provided by children's services providers and agencies currently  
20 contracting with the state to provide such services and by public and private not-for-profit or  
21 limited liability corporations owned exclusively by not-for-profit corporations children's services  
22 providers and agencies which have:

23           (1) A proven record of providing child welfare services within the state of Missouri  
24 which shall be consistent with the federal standards, but not less than the standards and policies  
25 used by the children's division as of January 1, 2004; and

26           (2) The ability to provide a range of child welfare services, which may include case  
27 management services, family-centered services, foster and adoptive parent recruitment and  
28 retention, residential care, in-home services, foster care services, adoption services, relative care  
29 case management, planned permanent living services, and family reunification services.

30

31 No contracts shall be issued for services related to the child abuse and neglect hotline,  
32 investigations of alleged abuse and neglect, and initial family assessments. Any contracts  
33 entered into by the division shall be in accordance with all federal laws and regulations, and shall  
34 not result in the loss of federal funding. Such children's services providers and agencies under  
35 contract with the division shall be subject to all federal, state, and local laws and regulations  
36 relating to the provision of such services, and shall be subject to oversight and inspection by  
37 appropriate state agencies to assure compliance with standards which shall be consistent with  
38 the federal standards, but not less than the standards and policies used by the children's division  
39 as of January 1, 2004.

40           3. In entering into and implementing contracts under subsection 2 of this section, the  
41 division shall consider and direct their efforts towards geographic areas of the state, including  
42 Greene County, where eligible direct children's services providers and agencies are currently  
43 available and capable of providing a broad range of services, including case management  
44 services, family-centered services, foster and adoptive parent recruitment and retention,  
45 residential care, family preservation services, foster care services, adoption services, relative care  
46 case management, other planned living arrangements, and family reunification services  
47 consistent with federal guidelines. Nothing in this subsection shall prohibit the division from  
48 contracting on an as-needed basis for any individual child welfare service listed above.

49           4. The contracts entered into under this section shall assure that:

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

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

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

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

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

65 (c) The mental and physical health of all individuals involved, including any history of  
66 abuse of or by any individuals involved; [and]

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

70 (e) **For any child under ten years old, treatment services may be available as**  
71 **defined in section 210.110. Assessments, as defined in section 210.110, may occur to**  
72 **determine which treatment services best meet the child's psychological and social needs.**  
73 **When the assessment indicates that a child's needs can be best resolved by intensive**  
74 **twenty-four hour treatment services, the division will locate, contract, and place the child**  
75 **with the appropriate organizations. This placement will be viewed as the least restrictive**  
76 **for the child based on the assessment;**

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

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

84 (6) Payment to the children's services providers and agencies shall be made based on the  
85 reasonable costs of services, including responsibilities necessary to execute the contract.

86 Contracts shall provide incentives in addition to the costs of services provided in recognition of  
87 accomplishment of the case goals and the corresponding cost savings to the state. The division  
88 shall promulgate rules to implement the provisions of this subdivision.

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

- 95 (1) An outcome target based on the child and family situation achieving permanency or  
96 independent living, where appropriate;
- 97 (2) Services authorized and necessary to facilitate the outcome target;
- 98 (3) Time frames in which services will be delivered; and
- 99 (4) Necessary evaluations and reporting.

100

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

108 6. On or before July 15, 2006, and each July fifteenth thereafter that the project is in  
109 operation, the division shall submit a report to the general assembly which shall include:

110 (1) Details about the specifics of the contracts, including the number of children and  
111 families served, the cost to the state for contracting such services, the current status of the  
112 children and families served, an assessment of the quality of services provided and outcomes  
113 achieved, and an overall evaluation of the project; and

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

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

119 7. The division shall accept as prima facie evidence of completion of the requirements  
120 for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the  
121 following nationally recognized bodies: the Council on Accreditation of Services, Children and



122 Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on  
123 Accreditation of Rehabilitation Facilities. The division shall not require any further evidence  
124 of qualification for licensure if such proof of voluntary accreditation is submitted.

125 8. By February 1, 2005, the children's division shall promulgate and have in effect rules  
126 to implement the provisions of this section, and pursuant to this section, shall define  
127 implementation plans and dates. Any rule or portion of a rule, as that term is defined in section  
128 536.010, RSMo, that is created under the authority delegated in this section shall become  
129 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
130 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
131 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
132 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
133 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
134 after August 28, 2004, shall be invalid and void.

**210.114. 1. Except as otherwise provided in section 207.085, RSMo, a private  
2 contractor, as defined in subdivision (4) of section 210.110, with the children's division that  
3 receives state moneys from the division or the department for providing services to  
4 children and their families shall have qualified immunity from civil liability for providing  
5 such services when the child is not in the physical care of such private contractor to the  
6 same extent that the children's division has qualified immunity from civil liability when the  
7 division or department directly provides such services.**

8 **2. This section shall not apply if a private contractor described above knowingly  
9 violates a stated or written policy of the division, any rule promulgated by the division, or  
10 any state law directly related to the child abuse and neglect activities of the division or any  
11 local ordinance relating to the safety condition of the property.**

210.117. [No] 1. A child taken into the custody of the state shall **not** be reunited with  
2 a parent or placed in a home in which the parent or any person residing in the home has been  
3 found guilty of, or pled guilty to, [a felony violation of chapter 566, RSMo, except for section  
4 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045,  
5 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of  
6 subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed  
7 in another state when a child is the victim, that would be a felony violation of chapter 566,  
8 RSMo, except for section 566.034, RSMo, or a violation of section 568.020, 568.045, 568.060,  
9 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection  
10 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section  
11 shall preclude the division from exercising its discretion regarding the placement of a child in  
12 a home in which the parent or any person residing in the home has been found guilty of or pled

13 guilty or nolo contendere to any offense excepted or excluded in this section] **any of the**  
 14 **following offenses when a child was the victim:**

15 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062,  
 16 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203,  
 17 566.206, 566.209, 566.212, or 566.215, RSMo;

18 (2) A violation of section 568.020, RSMo;

19 (3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

20 (4) A violation of section 568.065, RSMo;

21 (5) A violation of section 568.080, RSMo;

22 (6) A violation of section 568.090, RSMo; or

23 (7) A violation of section 568.175, RSMo.

24 2. For all other violations of offenses in chapters 566 and 568, RSMo, not  
 25 specifically listed in subsection 1 of this section or for a violation of an offense committed  
 26 in another state when a child is the victim that would be a violation of chapter 566 or 568,  
 27 RSMo, if committed in Missouri, the division may exercise its discretion regarding the  
 28 placement of a child taken into the custody of the state in which a parent or any person  
 29 residing in the home has been found guilty of, or pled guilty to, any such offense.

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

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

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

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

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

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

17

18 When the parents maintain joint domicile or comply with court-ordered visitation, there shall be  
 19 a rebuttable presumption that the nonoffending parent has not committed any violation of

20 sections 568.030, 568.032, 568.045, 568.050, or 568.060, RSMo, or has not engaged in any  
21 conduct that would constitute child abuse or neglect under chapter 210, RSMo. In order to rebut  
22 the presumption there must be a finding of actual harm or endangerment to the child if the child  
23 is placed in the custody of the nonoffending parent.

24 2. Nothing in this section shall prevent the division or the court from exercising its  
25 discretion to return a child or children to the custody of any individual.

211.038. [No] **1. A child under the jurisdiction of the juvenile court shall not be reunited**  
2 with a parent or placed in a home in which the parent or any person residing in the home has  
3 been found guilty of, or pled guilty to, [a felony violation of chapter 566, RSMo, except for  
4 section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020,  
5 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for  
6 subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an  
7 offense committed in another state when a child is the victim, that would be a felony violation  
8 of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020,  
9 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for  
10 subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided  
11 however, nothing in this section shall preclude the juvenile court from exercising its discretion  
12 regarding the placement of a child in a home in which the parent or any person residing in the  
13 home has been found guilty of or pled guilty or nolo contendere to any offense excepted or  
14 excluded in this section] **any of the following offenses when a child was the victim:**

15 (1) **A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062,**  
16 **566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203,**  
17 **566.206, 566.209, 566.212, or 566.215, RSMo;**

18 (2) **A violation of section 568.020, RSMo;**

19 (3) **A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;**

20 (4) **A violation of section 568.065, RSMo;**

21 (5) **A violation of section 568.080, RSMo;**

22 (6) **A violation of section 568.090, RSMo; or**

23 (7) **A violation of section 568.175, RSMo.**

24 2. **For all other violations of offenses in chapters 566 and 568, RSMo, not**  
25 **specifically listed in subsection 1 of this section or for a violation of an offense committed**  
26 **in another state when a child is the victim that would be a violation of chapter 566 or 568,**  
27 **RSMo, if committed in Missouri, the juvenile court may exercise its discretion regarding**  
28 **the placement of a child under the jurisdiction of the juvenile court in a home in which a**  
29 **parent or any person residing in the home has been found guilty of, or pled guilty to, any**  
30 **such offense.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 3. **(1)** In any court proceedings relating to custody of a child, the court shall not award  
41 custody or unsupervised visitation of a child to a parent if such parent or any person residing with  
42 such parent has been found guilty of, or pled guilty to, [a felony violation of chapter 566, RSMo,  
43 except for section 566.034, RSMo, when a child was the victim, or a violation of section  
44 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for  
45 subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an  
46 offense committed in another state when a child is the victim, that would be a felony violation  
47 of chapter 566, RSMo, except for section 566.034, RSMo, or section 568.020, 568.045, 568.060,  
48 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection  
49 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this  
50 subsection shall preclude the court from exercising its discretion regarding the awarding of  
51 custody or visitation for a child if the parent or any person residing in the home has been found  
52 guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection]  
53 **any of the following offenses when a child was the victim:**

54 (a) **A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062,**  
55 **566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203,**  
56 **566.206, 566.209, 566.212, or 566.215, RSMo;**

57 (b) **A violation of section 568.020, RSMo;**

58 (c) **A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;**

59 (d) **A violation of section 568.065, RSMo;**

60 (e) **A violation of section 568.080, RSMo;**

61 (f) **A violation of section 568.090, RSMo; or**

62 (g) **A violation of section 568.175, RSMo.**

63 (2) **For all other violations of offenses in chapters 566 and 568, RSMo, not**  
64 **specifically listed in subdivision (1) of this subsection or for a violation of an offense**  
65 **committed in another state when a child is the victim that would be a violation of chapter**  
66 **566 or 568, RSMo, if committed in Missouri, the court may exercise its discretion in**  
67 **awarding custody or visitation of a child to a parent if such parent or any person residing**  
68 **with such parent has been found guilty of, or pled guilty to, any such offense.**

69 4. The general assembly finds and declares that it is the public policy of this state that  
70 frequent, continuing and meaningful contact with both parents after the parents have separated  
71 or dissolved their marriage is in the best interest of the child, except for cases where the court  
72 specifically finds that such contact is not in the best interest of the child, and that it is the public

73 policy of this state to encourage parents to participate in decisions affecting the health, education  
74 and welfare of their children, and to resolve disputes involving their children amicably through  
75 alternative dispute resolution. In order to effectuate these policies, the court shall determine the  
76 custody arrangement which will best assure both parents participate in such decisions and have  
77 frequent, continuing and meaningful contact with their children so long as it is in the best  
78 interests of the child.

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

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

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

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

89 (4) Sole custody to either parent; or

90 (5) Third-party custody or visitation:

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

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

99 6. If the parties have not agreed to a custodial arrangement, or the court determines such  
100 arrangement is not in the best interest of the child, the court shall include a written finding in the  
101 judgment or order based on the public policy in subsection 4 of this section and each of the  
102 factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific  
103 relevant factors that made a particular arrangement in the best interest of the child. If a proposed  
104 custodial arrangement is rejected by the court, the court shall include a written finding in the  
105 judgment or order detailing the specific relevant factors resulting in the rejection of such  
106 arrangement.

107 7. Upon a finding by the court that either parent has refused to exchange information  
108 with the other parent, which shall include but not be limited to information concerning the

109 health, education and welfare of the child, the court shall order the parent to comply immediately  
110 and to pay the prevailing party a sum equal to the prevailing party's cost associated with  
111 obtaining the requested information, which shall include but not be limited to reasonable  
112 attorney's fees and court costs.

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

116 9. Any judgment providing for custody shall include a specific written parenting plan  
117 setting forth the terms of such parenting plan arrangements specified in subsection 7 of section  
118 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310  
119 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan  
120 approved and ordered by the court shall be in the court's discretion and shall be in the best  
121 interest of the child.

122 10. Unless a parent has been denied custody rights pursuant to this section or visitation  
123 rights under section 452.400, both parents shall have access to records and information  
124 pertaining to a minor child, including, but not limited to, medical, dental, and school records.  
125 If the parent without custody has been granted restricted or supervised visitation because the  
126 court has found that the parent with custody or any child has been the victim of domestic  
127 violence, as defined in section 455.200, RSMo, by the parent without custody, the court may  
128 order that the reports and records made available pursuant to this subsection not include the  
129 address of the parent with custody or the child. Unless a parent has been denied custody rights  
130 pursuant to this section or visitation rights under section 452.400, any judgment of dissolution  
131 or other applicable court order shall specifically allow both parents access to such records and  
132 reports.

133 11. Except as otherwise precluded by state or federal law, if any individual, professional,  
134 public or private institution or organization denies access or fails to provide or disclose any and  
135 all records and information, including, but not limited to, past and present dental, medical and  
136 school records pertaining to a minor child, to either parent upon the written request of such  
137 parent, the court shall, upon its finding that the individual, professional, public or private  
138 institution or organization denied such request without good cause, order that party to comply  
139 immediately with such request and to pay to the prevailing party all costs incurred, including, but  
140 not limited to, attorney's fees and court costs associated with obtaining the requested information.

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

145           13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and  
146 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the  
147 custody or visitation arrangement ordered by the court best protects the child and the parent or  
148 other family or household member who is the victim of domestic violence or abuse, as defined  
149 in sections 455.010 and 455.501, RSMo, and any other children for whom such parent has  
150 custodial or visitation rights from any further harm.

          452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable  
2 visitation rights unless the court finds, after a hearing, that visitation would endanger the child's  
3 physical health or impair his or her emotional development. The court shall enter an order  
4 specifically detailing the visitation rights of the parent without physical custody rights to the  
5 child and any other children for whom such parent has custodial or visitation rights. In  
6 determining the granting of visitation rights, the court shall consider evidence of domestic  
7 violence. If the court finds that domestic violence has occurred, the court may find that granting  
8 visitation to the abusive party is in the best interests of the child.

9           (2) (a) The court shall not grant visitation to the parent not granted custody if such  
10 parent or any person residing with such parent has been found guilty of or pled guilty to [a felony  
11 violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim,  
12 or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or  
13 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a  
14 child was the victim, or an offense committed in another state when a child is the victim, that  
15 would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or section  
16 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for  
17 subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided  
18 however, nothing in this subsection shall preclude the court from exercising its discretion  
19 regarding the awarding of custody or visitation for a child if the parent or any person residing in  
20 the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or  
21 excluded in this subsection] **any of the following offenses when a child was the victim:**

22           **a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,**  
23 **566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,**  
24 **566.209, 566.212, or 566.215, RSMo;**

25           **b. A violation of section 568.020, RSMo;**

26           **c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;**

27           **d. A violation of section 568.065, RSMo;**

28           **e. A violation of section 568.080, RSMo;**

29           **f. A violation of section 568.090, RSMo; or**

30           **g. A violation of section 568.175, RSMo.**



31           **(b) For all other violations of offenses in chapters 566 and 568, RSMo, not**  
32 **specifically listed in paragraph (a) of this subdivision or for a violation of an offense**  
33 **committed in another state when a child is the victim that would be a violation of chapter**  
34 **566 or 568, RSMo, if committed in Missouri, the court may exercise its discretion in**  
35 **granting visitation to a parent not granted custody if such parent or any person residing**  
36 **with such parent has been found guilty of, or pled guilty to, any such offense.**

37           **(3)** The court shall consider the parent's history of inflicting, or tendency to inflict,  
38 physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on  
39 other persons and shall grant visitation in a manner that best protects the child and the parent or  
40 other family or household member who is the victim of domestic violence, and any other  
41 children for whom the parent has custodial or visitation rights from any further harm.

42           **(4)** The court, if requested by a party, shall make specific findings of fact to show that  
43 the visitation arrangements made by the court best protect the child or the parent or other family  
44 or household member who is the victim of domestic violence, or any other child for whom the  
45 parent has custodial or visitation rights from any further harm.

46           **2. (1)** The court may modify an order granting or denying visitation rights whenever  
47 modification would serve the best interests of the child, but the court shall not restrict a parent's  
48 visitation rights unless it finds that the visitation would endanger the child's physical health or  
49 impair his or her emotional development.

50           **(2) (a)** In any proceeding modifying visitation rights, the court shall not grant  
51 unsupervised visitation to a parent if the parent or any person residing with such parent has been  
52 found guilty of or pled guilty to [a felony violation of chapter 566, RSMo, except for section  
53 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045,  
54 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1)  
55 of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed  
56 in another state when a child is the victim, that would be a felony violation of chapter 566,  
57 RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060,  
58 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of  
59 subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing  
60 in this subsection shall preclude the court from exercising its discretion regarding the placement  
61 of a child in a home in which the parent or any person residing in the home has been found guilty  
62 of or pled guilty or nolo contendere to any offense excepted or excluded in this subsection] **any**  
63 **of the following offenses when a child was the victim:**

64           **a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,**  
65 **566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,**  
66 **566.209, 566.212, or 566.215, RSMo;**

67           **b. A violation of section 568.020, RSMo;**

68           **c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;**

69           **d. A violation of section 568.065, RSMo;**

70           **e. A violation of section 568.080, RSMo;**

71           **f. A violation of section 568.090, RSMo; or**

72           **g. A violation of section 568.175, RSMo.**

73           **(b) For all other violations of offenses in chapters 566 and 568, RSMo, not**  
74 **specifically listed in paragraph (a) of this subdivision or for a violation of an offense**  
75 **committed in another state when a child is the victim that would be a violation of chapter**  
76 **566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion**  
77 **regarding the placement of a child taken into the custody of the state in which a parent or**  
78 **any person residing in the home has been found guilty of, or pled guilty to, any such**  
79 **offense.**

80           **(3) When a court restricts a parent's visitation rights or when a court orders supervised**  
81 **visitation because of allegations of abuse or domestic violence, a showing of proof of treatment**  
82 **and rehabilitation shall be made to the court before unsupervised visitation may be ordered.**  
83 **"Supervised visitation", as used in this section, is visitation which takes place in the presence of**  
84 **a responsible adult appointed by the court for the protection of the child.**

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

100           4. Within five court days after the filing of the family access motion pursuant to  
101 subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable  
102 state law, and applicable local or supreme court rules. A copy of the motion shall be personally

103 served upon the respondent by personal process server as provided by law or by any sheriff.  
104 Such service shall be served at the earliest time and shall take priority over service in other civil  
105 actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The  
106 motion shall contain the following statement in boldface type:

107

108 "PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE  
109 CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO  
110 RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

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

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

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

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

121 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO  
122 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED  
123 PARTY AND THE CHILD; AND

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

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

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

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

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

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

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

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

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

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

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

452.490. 1. The court may order any party to the proceeding who is in this state to  
2 appear personally before the court. If the court finds the physical presence of the child in court  
3 to be in the best interests of the child, the court may order that the party who has physical custody  
4 of the child appear personally with the child.

5 2. If a party to the proceeding whose presence is desired by the court is outside this state,  
6 with or without the child, the court may order that the notice given under section 452.460 include  
7 a statement directing that party to appear personally with or without the child.

8 3. If a party to the proceeding who is outside this state is directed to appear under  
9 subsection 1 of this section or desires to appear personally before the court with or without the  
10 child, the court may require another party to pay to the clerk of the court travel and other  
11 necessary expenses of the party so appearing and of the child, if this is just and proper under the  
12 circumstances.

13 4. If the court finds it to be in the best interest of the child that a guardian ad litem be  
14 appointed, the court may appoint a guardian ad litem for the child. The guardian ad litem so

15 appointed shall be an attorney licensed to practice law in the state of Missouri. Disqualification  
16 of a guardian ad litem shall be ordered in any legal proceeding pursuant to [chapter 210, RSMo,  
17 or] this chapter, upon the filing of a written application by any party within ten days of  
18 appointment[, or within ten days of August 28, 1998, if the appointment occurs prior to August  
19 28, 1998]. Each party shall be entitled to one disqualification of a guardian ad litem **appointed**  
20 **under this subsection** in each proceeding, except a party may be entitled to additional  
21 disqualifications of a guardian ad litem for good cause shown. The guardian ad litem may, for  
22 the purpose of determining custody of the child only, participate in the proceedings as if such  
23 guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the  
24 guardian ad litem.

25 **5. The court shall appoint a guardian ad litem in any proceeding in which child**  
26 **abuse or neglect is alleged.**