

SECOND REGULAR SESSION

# HOUSE BILL NO. 1648

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), MCGHEE, YAEGER, STEVENSON, SATER, ROBINSON, ROORDA, BOGETTO, DONNELLY, STORCH AND MOORE (Co-sponsors).

Read 1st time February 2, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4329L.02I

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### AN ACT

To repeal section 210.145, RSMo, and to enact in lieu thereof one new section relating to reports of child abuse and neglect.

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

Section A. Section 210.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.145, to read as follows:

210.145. 1. The division shall develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

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

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

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported

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.

15 risk and injury to the child. The division shall promulgate rules regarding the structured  
16 decision-making protocols to be utilized for all child abuse and neglect reports.

17 3. Upon receipt of a report, the division shall determine if the report merits investigation,  
18 including reports which if true would constitute a suspected violation of any of the following:  
19 section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than  
20 eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than  
21 eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than  
22 eighteen years of age and the 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, section 568.020, 568.030, 568.045,  
24 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040,  
25 RSMo, or an attempt to commit any such crimes. The division shall immediately communicate  
26 all reports that merit investigation to its appropriate local office and any relevant information as  
27 may be contained in the information system. The local division staff shall determine, through  
28 the use of protocols developed by the division, whether an investigation or the family assessment  
29 and services approach should be used to respond to the allegation. The protocols developed by  
30 the division shall give priority to ensuring the well-being and safety of the child.

31 4. The local office shall contact the appropriate law enforcement agency [immediately]  
32 upon receipt of a report which division personnel determine merits an investigation and provide  
33 such agency with a detailed description of the report received. In such cases the local division  
34 office shall **consult with the local law enforcement agency and determine the level of law**  
35 **enforcement involvement necessary to initiate the investigation. The local office may**  
36 request the assistance of the local law enforcement agency in all aspects of the investigation of  
37 the complaint **or at any time during the investigation. If assistance is requested,** the  
38 appropriate law enforcement agency shall either assist the division in the investigation or provide  
39 the division, within twenty-four hours, an explanation in writing detailing the reasons why it is  
40 unable to assist. **Nothing in this subsection shall preclude the involvement of local law**  
41 **enforcement from investigating any and all aspects of the complaint after notice of the**  
42 **complaint has been given to local law enforcement by the division.**

43 5. The local office of the division shall cause an investigation or family assessment and  
44 services approach to be initiated in accordance with the protocols established in subsection 2 of  
45 this section, except in cases where the sole basis for the report is educational neglect. If the  
46 report indicates that educational neglect is the only complaint and there is no suspicion of other  
47 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the  
48 report. If the report indicates the child is in danger of serious physical harm or threat to life, an  
49 investigation shall include direct observation of the subject child within twenty-four hours of the  
50 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct

51 observation. If the parents of the child are not the alleged abusers, a parent of the child must be  
52 notified prior to the child being interviewed by the division. If the abuse is alleged to have  
53 occurred in a school or child-care facility the division shall not meet with the child in any school  
54 building or child-care facility building where abuse of such child is alleged to have occurred.  
55 When the child is reported absent from the residence, the location and the well-being of the child  
56 shall be verified. For purposes of this subsection, "child-care facility" shall have the same  
57 meaning as such term is defined in section 210.201.

58 6. The director of the division shall name at least one chief investigator for each local  
59 division office, who shall direct the division response on any case involving a second or  
60 subsequent incident regarding the same subject child or perpetrator. The duties of a chief  
61 investigator shall include verification of direct observation of the subject child by the division  
62 and shall ensure information regarding the status of an investigation is provided to the public  
63 school district liaison. The public school district liaison shall develop protocol in conjunction  
64 with the chief investigator to ensure information regarding an investigation is shared with  
65 appropriate school personnel. The superintendent of each school district shall designate a  
66 specific person or persons to act as the public school district liaison. Should the subject child  
67 attend a nonpublic school the chief investigator shall notify the school principal of the  
68 investigation. Upon notification of an investigation, all information received by the public  
69 school district liaison or the school shall be subject to the provisions of the federal Family  
70 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34  
71 C.F.R., Part 99.

72 7. The investigation shall include but not be limited to the nature, extent, and cause of  
73 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the  
74 names and conditions of other children in the home, if any; the home environment and the  
75 relationship of the subject child to the parents or other persons responsible for the child's care;  
76 any indication of incidents of physical violence against any other household or family member;  
77 and other pertinent data.

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

82 9. Upon completion of the investigation, if the division suspects that the report was made  
83 maliciously or for the purpose of harassment, the division shall refer the report and any evidence  
84 of malice or harassment to the local prosecuting or circuit attorney.

85 10. Multidisciplinary teams shall be used whenever conducting the investigation as  
86 determined by the division in conjunction with local law enforcement. Multidisciplinary teams

87 shall be used in providing protective or preventive social services, including the services of law  
88 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and  
89 other agencies, both public and private.

90 11. For all family support team meetings involving an alleged victim of child abuse or  
91 neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian  
92 of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be  
93 provided notice and be permitted to attend all such meetings. Family members, other than  
94 alleged perpetrators, or other community informal or formal service providers that provide  
95 significant support to the child and other individuals may also be invited at the discretion of the  
96 parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian  
97 or custodian and the foster parents may request that other individuals, other than alleged  
98 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or  
99 attends such team meetings, the division or the convenor of the meeting shall provide such  
100 persons with notice of all such subsequent meetings involving the child. Families may determine  
101 whether individuals invited at their discretion shall continue to be invited.

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

109 13. If the appropriate local division personnel determines to use a family assessment and  
110 services approach, the division shall:

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

113 (2) Provide services which are voluntary and time-limited unless it is determined by the  
114 division based on the assessment of risk that there will be a high risk of abuse or neglect if the  
115 family refuses to accept the services. The division shall identify services for families where it  
116 is determined that the child is at high risk of future abuse or neglect. The division shall  
117 thoroughly document in the record its attempt to provide voluntary services and the reasons these  
118 services are important to reduce the risk of future abuse or neglect to the child. If the family  
119 continues to refuse voluntary services or the child needs to be protected, the division may  
120 commence an investigation;

121 (3) Commence an immediate investigation if at any time during the family assessment  
122 and services approach the division determines that an investigation, as delineated in sections

210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

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

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

15. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. Such person may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the reporter within five days of the outcome of the investigation. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

16. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

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

(2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has

159 been made. If a report has been made, the court may stay the custody proceeding until the  
160 children's division completes its investigation.

161         17. In any judicial proceeding involving the custody of a child where the court  
162 determines that the child is in need of services [pursuant to subdivision (d)] **under paragraph**  
163 **(d) of subdivision (1)** of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the  
164 child's parent, guardian or custodian shall not be entered into the registry.

165         18. The children's division is hereby granted the authority to promulgate rules and  
166 regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to  
167 carry out the provisions of sections 210.109 to 210.183.

168         19. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
169 is created under the authority delegated in this section shall become effective only if it complies  
170 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
171 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
172 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
173 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
174 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be  
175 invalid and void.

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