

FIRST REGULAR SESSION

HOUSE BILL NO. 1229

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), JONES (89), FLOOK,
COX AND FRANZ (Co-sponsors).

Read 1st time March 29, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2751L.01I

AN ACT

To repeal sections 210.110, 210.135, 210.145, 210.150, 210.152, 210.153, 210.183, and 210.903, RSMo, and to enact in lieu thereof eight new sections relating to child abuse and neglect, with a penalty provision.

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

Section A. Sections 210.110, 210.135, 210.145, 210.150, 210.152, 210.153, 210.183, and 210.903, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.110, 210.135, 210.145, 210.150, 210.152, 210.153, 210.183, and 210.903, to read as follows:

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

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

(2) "Assessment and treatment services for children under ten years old", an approach to be developed by the children's division which will recognize and treat the specific needs of at-risk and abused or neglected children under the age of ten. The developmental and medical assessment may be a broad physical, developmental, and mental health screening to be completed within thirty days of a child's entry into custody and every six months thereafter as

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.

12 long as the child remains in care. Screenings may be offered at a centralized location and
13 include, at a minimum, the following:

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

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

24

25 Children whose screenings indicate an area of concern may complete a comprehensive, in-depth
26 health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

27 (3) "Central registry", a registry of persons where the [division has found probable cause
28 to believe prior to August 28, 2004, or by a preponderance of the evidence after August 28,
29 2004,] **child abuse and neglect review board has made a final determination by a**
30 **preponderance of the evidence following the procedures set forth in section 208.152, RSMo,**
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 (4) "Child", any person, regardless of physical or mental condition, under eighteen years
42 of age;

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

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

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

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

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

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

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

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

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

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

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

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

210.135. Any person, official, or institution complying with the provisions of sections 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, or the removal or retaining a child pursuant to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement agency, juvenile office, court, or child-protective service agency of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, **that** any person, official or institution intentionally filing a false report **or intentionally providing false information in a report**, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. [Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.] **In any civil action brought against a person or institution for a false report, the trier of fact may presume that a false report of child abuse causes damage or injury to the reputation of the individual or institution against whom the report is made. In addition to damages for injury or reputation, a prevailing plaintiff may obtain the reasonable costs of attorney's fees and costs expended defending the false charges in any administrative proceeding or judicial review proceeding.**

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 risk and injury to the child. The division shall promulgate rules regarding the structured 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 request the assistance of the local law enforcement agency in all aspects of the
35 investigation of the complaint. The appropriate law enforcement agency shall either assist the
36 division in the investigation or provide the division, within twenty-four hours, an explanation
37 in writing detailing the reasons why it is unable to assist.

38 5. The local office of the division shall cause an investigation or family assessment and
39 services approach to be initiated in accordance with the protocols established in subsection 2 of
40 this section, except in cases where the sole basis for the report is educational neglect. If the
41 report indicates that educational neglect is the only complaint and there is no suspicion of other
42 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
43 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
44 investigation shall include direct observation of the subject child within twenty-four hours of the
45 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
46 observation. If the parents of the child are not the alleged abusers, a parent of the child must be
47 notified prior to the child being interviewed by the division. If the abuse is alleged to have
48 occurred in a school or child-care facility the division shall not meet with the child in any school
49 building or child-care facility building where abuse of such child is alleged to have occurred.
50 When the child is reported absent from the residence, the location and the well-being of the child
51 shall be verified. For purposes of this subsection, "child-care facility" shall have the same
52 meaning as such term is defined in section 210.201.

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

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

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

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

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

85 11. For all family support team meetings involving an alleged victim of child abuse or
86 neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian
87 of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be
88 provided notice and be permitted to attend all such meetings. Family members, other than

89 alleged perpetrators, or other community informal or formal service providers that provide
90 significant support to the child and other individuals may also be invited at the discretion of the
91 parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian
92 or custodian and the foster parents may request that other individuals, other than alleged
93 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
94 attends such team meetings, the division or the convenor of the meeting shall provide such
95 persons with notice of all such subsequent meetings involving the child. Families may determine
96 whether individuals invited at their discretion shall continue to be invited.

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

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

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

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

116 (3) Commence an immediate investigation if at any time during the family assessment
117 and services approach the division determines that an investigation, as delineated in sections
118 210.109 to 210.183, is required. The division staff who have conducted the assessment may
119 remain involved in the provision of services to the child and family;

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

122 14. [Within thirty days of an oral report of abuse or neglect, the local office shall update
123 the information in the information system. The information system shall contain, at a minimum,
124 the determination made by the division as a result of the investigation, identifying information

125 on the subjects of the report, those responsible for the care of the subject child and other relevant
126 dispositional information. The division shall complete all investigations within thirty days,
127 unless good cause for the failure to complete the investigation is documented in the information
128 system. If the investigation is not completed within thirty days, the information system shall be
129 updated at regular intervals and upon the completion of the investigation. The information in
130 the information system shall be updated to reflect any subsequent findings, including any
131 changes to the findings based on an administrative or judicial hearing on the matter.] **The**
132 **division shall complete all investigations within thirty days. Following the investigation,**
133 **the local office shall make a preliminary determination by a preponderance of the evidence**
134 **as to whether abuse or neglect has likely occurred, and follow the procedures outlined in**
135 **section 210.152. No determination of the division or local office shall be entered in the**
136 **central registry until:**

137 (1) **The alleged perpetrator fails to request review by the child abuse and neglect**
138 **review board or trial de novo in the circuit court within the sixty-day period provided in**
139 **subsection 3 of section 210.152; or**

140 (2) **A determination is made by the child abuse and neglect review board that abuse**
141 **or neglect exists, but as subject to subdivisions (2) and (3) of subsection 5 of section**
142 **210.152.**

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

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

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

163 (2) The court may on its own motion, or shall if requested by a party to the proceeding,
164 make an inquiry not on the record with the children's division to determine if such a report has
165 been made. If a report has been made, the court may stay the custody proceeding until the
166 children's division completes its investigation.

167 17. In any judicial proceeding involving the custody of a child where the court
168 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
169 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall
170 not be entered into the registry.

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

174 19. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
175 is created under the authority delegated in this section shall become effective only if it complies
176 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
177 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
178 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
179 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
180 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
181 invalid and void.

210.150. 1. The children's division shall ensure the confidentiality of all reports and
2 records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local
3 offices, the central registry, and other appropriate persons, officials, and institutions pursuant to
4 sections 210.109 to 210.183. To protect the rights of the family and the child named in the report
5 as a victim **and the due process rights of the alleged perpetrator**, the children's division shall
6 establish guidelines which will ensure that any disclosure of information concerning the abuse
7 and neglect involving that child is made only to persons or agencies that have a right to such
8 information. The division may require persons to make written requests for access to records
9 maintained by the division. **Under no circumstances shall any information regarding an**
10 **investigation be released to any persons, including but not limited to those persons listed**
11 **in subsection 2 of this section other than employees of the division, law enforcement**
12 **agencies, or the juvenile offices who are participating in an investigation described in**
13 **section 210.145, until either:**

14 **(1) The alleged perpetrator fails to request review by the child abuse and neglect**
15 **review board or trial de novo in the circuit court within the sixty-day period provided**
16 **under subsection 3 of section 210.152; or**

17 **(2) A determination is made by the child abuse and neglect review board that abuse**
18 **or neglect exists, but as subject to subdivisions (2) and (3) of subsection 5 of section**
19 **210.152.**

20

21 **Once permitted to release information under this subsection,** the division shall only release
22 information to persons who have a right to such information. The division shall notify persons
23 receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section
24 of the purpose for which the information is released and of the penalties for unauthorized
25 dissemination of information. Such information shall be used only for the purpose for which the
26 information is released.

27 2. Only the following persons shall have access to investigation records contained in the
28 central registry:

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

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

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

38 (4) Any child named in the report as a victim, or a legal representative, or the parent, if
39 not the alleged perpetrator, or guardian of such person when such person is a minor, or is
40 mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to
41 persons in this category. Prior to the release of any identifying information, the division shall
42 determine if the release of such identifying information may place a person's life or safety in
43 danger. If the division makes the determination that a person's life or safety may be in danger,
44 the identifying information shall not be released. The division shall provide a method for
45 confirming or certifying that a designee is acting on behalf of a subject;

46 (5) Any alleged perpetrator named in the report, but the names of reporters shall not be
47 furnished to persons in this category. Prior to the release of any identifying information, the
48 division shall determine if the release of such identifying information may place a person's life
49 or safety in danger. If the division makes the determination that a person's life or safety may be

50 in danger, the identifying information shall not be released. However, the investigation reports
51 will not be released to any alleged perpetrator with pending criminal charges arising out of the
52 facts and circumstances named in the investigation records until an indictment is returned or an
53 information filed;

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

59 (7) Any person engaged in a bona fide research purpose, with the permission of the
60 director; provided, however, that no information identifying the child named in the report as a
61 victim [or], the reporters, **the alleged perpetrators, or witnesses** shall be made available to the
62 researcher, unless the [identifying information is essential to the research or evaluation and] **the**
63 **alleged perpetrators, the reporters, witnesses, and** the child named in the report as a victim
64 or, if the child is less than eighteen years of age, through the child's parent, or guardian provides
65 written permission;

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

83 (9) Any parent or legal guardian who inquires about a child abuse or neglect report
84 involving a specific person or child-care facility who does or may provide services or care to a
85 child of the person requesting the information. Request for examinations shall be made to the

86 division director or the director's designee, in writing, by the parent or legal guardian of the child
87 and shall be accompanied with a signed and notarized release form from the person who does
88 or may provide care or services to the child. The notarized release form shall include the full
89 name, date of birth and Social Security number of the person who does or may provide care or
90 services to a child. The response shall include information pertaining to the nature and
91 disposition of any report or reports of abuse or neglect revealed by the examination of the central
92 registry. This response shall not include any identifying information regarding any person other
93 than the alleged perpetrator of the abuse or neglect. The response shall be given within ten
94 working days of the time it was received by the division;

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

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

103 (12) Any child fatality review panel established pursuant to section 210.192 or any state
104 child fatality review panel established pursuant to section 210.195[;

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

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

114 (1) Appropriate staff of the division;

115 (2) Any child named in the report as a victim, or a legal representative, or the parent or
116 guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent.
117 The names or other identifying information of reporters shall not be furnished to persons in this
118 category. Prior to the release of any identifying information, the division shall determine if the
119 release of such identifying information may place a person's life or safety in danger. If the
120 division makes the determination that a person's life or safety may be in danger, the identifying

121 information shall not be released. The division shall provide for a method for confirming or
122 certifying that a designee is acting on behalf of a subject;

123 (3) Any alleged perpetrator named in the report, but the names of reporters shall not be
124 furnished to persons in this category. Prior to the release of any identifying information, the
125 division shall determine if the release of such identifying information may place a person's life
126 or safety in danger. If the division makes the determination that a person's life or safety may be
127 in danger, the identifying information shall not be released. However, the investigation reports
128 will not be released to any alleged perpetrator with pending criminal charges arising out of the
129 facts and circumstances named in the investigation records until an indictment is returned or an
130 information filed;

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

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

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

137 (7) Any person engaged in a bona fide research purpose, with the permission of the
138 director; provided, however, that no information identifying the [subjects of the reports or the
139 reporters shall be made available to the researcher, unless the identifying information is essential
140 to the research or evaluation and the subject] **child named in the report, the reporters, the
141 alleged perpetrators, or witnesses shall be made available to the researcher, unless the
142 reporters, the alleged perpetrators, witnesses, or the child, or if a child is less than eighteen
143 years of age**, through the child's parent or guardian, provides written permission.

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

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

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

4 (1) For investigation reports contained in the central registry **as a result of a final**
5 **determination under this section**, identifying information shall be retained by the division;

6 (2) (a) For investigation reports initiated against a person required to report pursuant to
7 section 210.115, where insufficient evidence of abuse or neglect is found by the division and
8 where the division determines the allegation of abuse or neglect was made maliciously, for
9 purposes of harassment or in retaliation for the filing of a report by a person required to report,
10 identifying information shall be expunged by the division within forty-five days from the
11 conclusion of the investigation;

12 (b) For investigation reports, where insufficient evidence of abuse or neglect is found
13 by the division and where the division determines the allegation of abuse or neglect was made
14 maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying
15 information shall be expunged by the division within forty-five days from the conclusion of the
16 investigation;

17 (c) For investigation reports initiated by a person required to report under section
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
19 information shall be retained for five years from the conclusion of the investigation. For all other
20 investigation reports where insufficient evidence of abuse or neglect is found by the division,
21 identifying information shall be retained for two years from the conclusion of the investigation.
22 Such reports shall include any exculpatory evidence known by the division, including
23 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
24 identifying information shall be removed from the records of the division and destroyed;

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

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

30 **(5) (a) For reports in which a determination of abuse or neglect is not made under**
31 **this section, identifying information shall be expunged by the division within forty-five**
32 **days of the conclusion of the investigation or the final determination against a finding that**
33 **abuse or neglect occurs.**

34 **(b) Any person whose name is in the central registry as a result of a determination**
35 **that is or was subsequently reversed by the child abuse and neglect review board or by the**
36 **courts may submit evidence of such reversal in writing to the director of the children's**
37 **division. The director shall cause the relevant entry of such person's name to be removed**
38 **from the central registry within thirty days after receiving such written evidence of**
39 **reversal. The director shall notify the person in writing that the relevant entry has been**
40 **removed. If the person is in the central registry on the basis of other determinations of**

41 **abuse or neglect that were never reversed, such entries shall remain in the central registry**
42 **after the relevant entry has been removed.**

43 2. Within **ten days following the preliminary determination of the division as**
44 **described in subsection 14 of section 210.145** or ninety days after receipt of a report of abuse
45 or neglect that is investigated, **whichever first occurs**, the alleged perpetrator named in the
46 report and the parents of the child named in the report, if the alleged perpetrator is not a parent,
47 shall be notified in writing of [any] **the preliminary** determination made by the division based
48 on the investigation. The notice shall advise either:

49 (1) That the division has determined by a [probable cause finding prior to August 28,
50 2004, or by a] preponderance of the evidence [after August 28, 2004], that abuse or neglect exists
51 and that the division shall retain all identifying information regarding the abuse or neglect; that
52 such information shall remain confidential and will not be released except to law enforcement
53 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
54 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's
55 determination through a review by the child abuse and neglect review board as provided in
56 subsection 3 of this section **or a trial de novo as provided in subsection 5 of this section**; or

57 (2) That the division has [not made a probable cause finding or] determined by a
58 preponderance of the evidence that abuse or neglect exists.

59 3. Any person named in an investigation as [a] **an alleged** perpetrator who is aggrieved
60 by a determination of abuse or neglect by the division as provided in this section may seek **a trial**
61 **de novo under subsection 5 of this section** or an administrative review by the child abuse and
62 neglect review board pursuant to the provisions of **subsection 4 of this section and** section
63 210.153. Such request for review shall be made within sixty days of notification of the division's
64 decision under this section. **If an aggrieved party fails to request a review of the division's**
65 **preliminary determination by the child abuse and neglect review board or trial de novo**
66 **within the sixty-day period allowed, the preliminary determination of the division shall be**
67 **considered the final determination of abuse or neglect.** In those cases where criminal charges
68 arising out of facts of the investigation are pending, the request for review shall be made within
69 sixty days from the court's final disposition or dismissal of the charges.

70 4. (1) **If review by the child abuse and neglect review board is requested by the**
71 **aggrieved party under subsection 3 of this section, the child abuse and neglect review**
72 **board shall schedule a hearing within ninety days following such request.** In any [such]
73 action for administrative review, the child abuse and neglect review board shall sustain the
74 division's determination if such determination [was supported by evidence of probable cause
75 prior to August 28, 2004, or] is supported by a preponderance of the evidence [after August 28,
76 2004, and is not against the weight of such evidence]. The child abuse and neglect review board

77 hearing shall be closed to all persons except the parties, their attorneys and those persons
78 providing testimony on behalf of the parties.

79 **(2) At no time following the alleged perpetrator's request for an administrative**
80 **review by the child abuse and neglect review board shall either the alleged perpetrator or**
81 **the division, or their legal representatives, have any ex parte contact with any member of**
82 **the child abuse and neglect review board regarding the facts of the specific case in**
83 **question. If any party to a child abuse and neglect review board proceeding submits**
84 **written material on their behalf, the opposing party shall be simultaneously provided with**
85 **a copy of each document submitted.**

86 **5. (1) If the alleged perpetrator is aggrieved by the preliminary decision of the division**
87 **or the decision of the** child abuse and neglect review board, the alleged perpetrator may seek
88 de novo judicial review in the circuit court in the county in which the alleged perpetrator resides
89 and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole
90 County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole
91 County. The case may be assigned to the family court division where such a division has been
92 established. The request for a [judicial review] **trial de novo** shall be made within sixty days
93 of notification of the **preliminary decision of the division or** of the child abuse and neglect
94 review board decision. In reviewing such decisions, the circuit court shall provide the alleged
95 perpetrator the opportunity to appear and present testimony. The alleged perpetrator may
96 subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
97 shall have the discretion to allow the parties to submit the case upon a stipulated record.

98 **(2) An alleged perpetrator who files a request for a trial de novo may,**
99 **simultaneously with such request, apply to the circuit court for a stay order preventing the**
100 **division from entering the alleged perpetrator's name in the central registry. The circuit**
101 **court may grant the stay order unless the division makes a showing that:**

102 **(a) The alleged abuse was sexual abuse;**

103 **(b) The alleged abuse caused serious physical injury to the alleged victim;**

104 **(c) The alleged victim is likely to be subject to future abuse by the alleged**
105 **perpetrator.**

106 **(3) The circuit court may dissolve any stay order granted under this subdivision**
107 **upon a showing that the facts and circumstances have changed and/or that the alleged**
108 **perpetrator is engaging in deliberate delay of the proceedings.**

109 **(4) All trial de novo proceedings in circuit court shall be conducted in accordance**
110 **with the Missouri criminal rules of evidence and the Missouri rules of civil procedure;**
111 **except that, the circuit court shall have the discretion to allow the parties to submit the case**
112 **upon a stipulated record.**

113 **(5) The court conducting judicial review shall grant reasonable attorney's fees and**
114 **costs to the petitioner when the petitioner prevails. The only circumstances under which**
115 **the reviewing court is not required to grant attorney's fees to a prevailing petitioner**
116 **include the following:**

117 **(a) When the petitioner prevails based upon the death or unavailability of the**
118 **alleged victim of abuse or neglect and the division was not aware of the death or**
119 **unavailability of the alleged victim at the time of its initial determination regarding the**
120 **allegation of abuse or neglect; or**

121 **(b) When the division otherwise consents to the petition of an alleged perpetrator**
122 **within thirty days of service of the petition upon the division.**

123 **(6) If the circumstances described in paragraphs (a) and (b) of this subdivision**
124 **exist, the court may nevertheless grant attorney's fees and costs to the prevailing petitioner**
125 **upon a finding by the court that the abuse or neglect allegations were without merit and**
126 **that the division knew or should have known that the allegations were without merit**
127 **following an investigation. The factors the court may consider in making such**
128 **determination include, but are not limited to, the following:**

129 **(a) Whether the alleged perpetrator was subjected to criminal prosecution and, if**
130 **so, the results of the criminal prosecution;**

131 **(b) The quality of the division's initial investigation, including but not limited to**
132 **consideration of exculpatory evidence.**

133 6. In any such action for administrative review, the child abuse and neglect review board
134 shall notify the child or the parent, guardian or legal representative of the child that a review has
135 been requested.

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

6 2. The board shall consist of nine members, who shall be appointed by the governor with
7 the advice and consent of the senate, and **no more than five members shall be of the same**
8 **political party as the governor. Members shall serve for a term of no more than three**
9 **years. The board shall include:**

10 (1) A physician, [nurse or other medical professional] **who shall not be an employee**
11 **of the state or any of its agencies or political subdivisions;**

12 (2) [A licensed child or family psychologist, counselor or social worker;

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

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

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

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

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

20 (3) A child advocate;

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

22 4.] **Three attorneys, each of whom has engaged in the private practice of law in the**
23 **state of Missouri for no less than ten years, including some experience in trial work. One**
24 **such attorney member shall be selected annually by a majority vote of the members of the**
25 **board to act as chairperson and to rule on issues of procedure, law, and evidence.**

26 3. The following persons may participate in a child abuse and neglect review board
27 review:

28 (1) Appropriate children's division staff and legal counsel for the department;

29 (2) The alleged perpetrator, who may be represented pro se or be represented by legal
30 counsel. The alleged perpetrator's presence is not required for the review to be conducted. The
31 alleged perpetrator may submit a written statement for the board's consideration in lieu of
32 personal appearance; and

33 (3) Witnesses providing information on behalf of the child, the alleged perpetrator or the
34 department. Witnesses shall only be allowed to attend that portion of the review in which they
35 are presenting [information] **evidence.**

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

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

41 7. The department shall promulgate rules and regulations governing the operation of the
42 child abuse and neglect review board except as otherwise provided for in this section. These
43 rules and regulations shall, at a minimum, describe [the length of terms, the selection of the
44 chairperson,] confidentiality, **and** notification of parties and time frames for the completion of
45 the review **consistent with the provisions of section 210.152.**

46 8. Findings of probable cause to suspect prior to August 28, 2004, or findings by a
47 preponderance of the evidence after August 28, 2004, of child abuse and neglect by the division

48 which are substantiated by court adjudication shall not be heard by the child abuse and neglect
49 review board.

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

5 "The investigation is being undertaken by the Children's Division pursuant to the
6 requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child
7 abuse or neglect.

8 The identity of the person who reported the incident of abuse or neglect is confidential
9 and may not even be known to the Division since the report could have been made anonymously.

10 This investigation is required by law to be conducted in order to enable the Children's
11 Division to identify incidents of abuse or neglect in order to provide protective or preventive
12 social services to families who are in need of such services.

13 The division shall make every reasonable attempt to complete the investigation within
14 thirty days. Within ninety days you will receive a letter from the Division which will inform you
15 of one of the following:

16 (1) That the Division has found insufficient evidence of abuse or neglect; or

17 (2) That [there appears to be] **a preliminary determination has been made** by a
18 preponderance of the evidence **that there appears to be** reason to suspect the existence of child
19 abuse or neglect in the judgment of the Division and that the Division will contact the family to
20 offer social services.

21 If the Division finds by a preponderance of the evidence reason to believe child abuse or
22 neglect has occurred or the case is substantiated by court adjudication, a record of the report and
23 information gathered during the investigation will remain on file with the Division.

24 If you disagree with the determination of the Division and feel that there is insufficient
25 reason to believe by a preponderance of the evidence that abuse or neglect has occurred, you
26 have a right to request **a trial de novo or** an administrative review at which time you may hire
27 an attorney to represent you. If you request an administrative review on the issue, you will
28 **receive a hearing within ninety days of your request. You will** be notified of the date and
29 time of your administrative review hearing by the child abuse and neglect review board. If the
30 Division's decision is reversed by the child abuse and neglect review board, the Division records
31 concerning the report and investigation will be updated to reflect such finding. If the child abuse
32 and neglect review board upholds the Division's decision, an appeal may be filed in circuit court
33 within sixty days of the child abuse and neglect review board's decision."

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

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

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

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

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

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

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

10 (2) **(a)** Probable cause findings of abuse and neglect prior to August 28, 2004, or
11 findings of abuse and neglect by a preponderance of the evidence after August 28, 2004, pursuant
12 to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly
13 or disabled, pursuant to section 570.145, RSMo.

14 **(b) Any person whose name is in the registry under paragraph (a) of this**
15 **subdivision and whose appeal of the finding of abuse or neglect was reversed by the child**
16 **abuse and neglect review board or the courts may submit evidence of such reversal in**
17 **writing to the director of the department of health and senior services. The director shall**
18 **cause the relevant entry of such person's name to be removed from the family care safety**
19 **registry within thirty days after receiving such written evidence of reversal. The director**
20 **shall notify the person in writing that the relevant entry has been removed. If the person**
21 **is in the family care safety registry on the basis of other determinations of abuse or neglect**
22 **that were never reversed, such entries shall remain in the central registry after the relevant**
23 **entry has been removed;**

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

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

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

30 (6) Child-care facility license denials, revocations and suspensions pursuant to sections
31 210.201 to 210.259;

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

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

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