

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 885
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services April 2, 2008 with recommendation that House Committee Substitute for Senate Bill No. 885 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3850L.03C

AN ACT

To repeal sections 210.135, 210.150, 210.152, 210.817, 210.861, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, RSMo, and to enact in lieu thereof thirteen new sections relating to children, with penalty provisions.

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

Section A. Sections 210.135, 210.150, 210.152, 210.817, 210.861, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 210.135, 210.150, 210.152, 210.817, 210.861, 210.890, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, to read as follows:

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, **or any person who notifies a person in charge or designated agent of a medical institution, school facility, or public or private agency of suspected abuse** shall have immunity from any liability, civil or criminal, that

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 otherwise might result by reason of such actions, **including any civil or criminal liability for**
12 **a third party that otherwise may result for any action taken by an institution, facility, or**
13 **agency as a result of notification of suspected abuse by such third party.** Provided, however,
14 any person, official or institution intentionally filing a false report, acting in bad faith, or with
15 ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official,
16 or institution shall have the same immunity with respect to participation in any judicial
17 proceeding resulting from the report.

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, the children's division shall establish guidelines which will ensure that any disclosure
6 of information concerning the abuse and neglect involving that child is made only to persons or
7 agencies that have a right to such information. The division may require persons to make written
8 requests for access to records maintained by the division. The division shall only release
9 information to persons who have a right to such information. The division shall notify persons
10 receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section
11 of the purpose for which the information is released and of the penalties for unauthorized
12 dissemination of information. Such information shall be used only for the purpose for which the
13 information is released.

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

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

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

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

25 (4) Any child named in the report as a victim, or a legal representative, or the parent, if
26 not the alleged perpetrator, or guardian of such person when such person is a minor, or is
27 mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to
28 persons in this category. Prior to the release of any identifying information, the division shall
29 determine if the release of such identifying information may place a person's life or safety in

30 danger. If the division makes the determination that a person's life or safety may be in danger,
31 the identifying information shall not be released. The division shall provide a method for
32 confirming or certifying that a designee is acting on behalf of a subject;

33 (5) Any alleged perpetrator named in the report, but the names of reporters shall not be
34 furnished to persons in this category. Prior to the release of any identifying information, the
35 division shall determine if the release of such identifying information may place a person's life
36 or safety in danger. If the division makes the determination that a person's life or safety may be
37 in danger, the identifying information shall not be released[. However, the investigation reports
38 will not be released to any alleged perpetrator with pending criminal charges arising out of the
39 facts and circumstances named in the investigation records until an indictment is returned or an
40 information filed];

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

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

52 (8) Any child-care facility; child-placing agency; residential-care facility, including
53 group homes; juvenile courts; public or private elementary schools; public or private secondary
54 schools; or any other public or private agency exercising temporary supervision over a child or
55 providing or having care or custody of a child who may request an examination of the central
56 registry from the division for all employees and volunteers or prospective employees and
57 volunteers, who do or will provide services or care to children. Any agency or business
58 recognized by the division or business which provides training and places or recommends people
59 for employment or for volunteers in positions where they will provide services or care to children
60 may request the division to provide an examination of the central registry. Such agency or
61 business shall provide verification of its status as a recognized agency. Requests for
62 examinations shall be made to the division director or the director's designee in writing by the
63 chief administrative officer of the above homes, centers, public and private elementary schools,
64 public and private secondary schools, agencies, or courts. The division shall respond in writing
65 to that officer. The response shall include information pertaining to the nature and disposition

66 of any report or reports of abuse or neglect revealed by the examination of the central registry.
67 This response shall not include any identifying information regarding any person other than the
68 alleged perpetrator of the abuse or neglect;

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

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

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

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

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

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

100 (1) Appropriate staff of the division;

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

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

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

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

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

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

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

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

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

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

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

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

(c) For investigation reports initiated by a person required to report under section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for five years from the conclusion of the investigation. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for two years from the conclusion of the investigation.

Such reports shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such time period, the identifying information shall be removed from the records of the division and destroyed;

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

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

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

(1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists

37 and that the division shall retain all identifying information regarding the abuse or neglect; that
38 such information shall remain confidential and will not be released except to law enforcement
39 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
40 perpetrator has [sixty] **thirty** days from the date of receipt of the notice to seek reversal of the
41 division's determination through a review by the child abuse and neglect review board as
42 provided in subsection 3 of this section; or

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

45 3. Any person named in an investigation as a perpetrator who is aggrieved by a
46 determination of abuse or neglect by the division as provided in this section may seek an
47 administrative review by the child abuse and neglect review board pursuant to the provisions of
48 section 210.153. Such request for review shall be made within [sixty] **thirty** days of notification
49 of the division's decision under this section. [In those cases where criminal charges arising out
50 of facts of the investigation are pending, the request for review shall be made within sixty days
51 from the court's final disposition or dismissal of the charges.]

52 4. In any such action for administrative review, the child abuse and neglect review board
53 shall sustain the division's determination if such determination was supported by evidence of
54 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after
55 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect
56 review board hearing shall be closed to all persons except the parties, their attorneys and those
57 persons providing testimony on behalf of the parties.

58 5. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect
59 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the
60 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in
61 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a
62 resident of the state, proper venue shall be in Cole County. The case may be assigned to the
63 family court division where such a division has been established. The request for a judicial
64 review shall be made within [sixty] **thirty** days of notification of the decision of the child abuse
65 and neglect review board decision. In reviewing such decisions, the circuit court shall provide
66 the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator
67 may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court
68 shall have the discretion to allow the parties to submit the case upon a stipulated record.

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

210.817. As used in sections 210.817 to 210.852, the following terms mean:

2 (1) "Blood tests", any medically recognized analysis which uses blood or other body
3 tissue or fluid to isolate and identify genetic or other characteristics in order to determine the
4 probability of paternity or the probability of exclusion of paternity. The term specifically
5 includes, without being limited to, tests employing red cell antigens, white cell antigens,
6 including the human leukocyte antigen (HLA) test, DNA methodology, and serum proteins and
7 enzymes;

8 (2) "Bureau", the bureau of vital records of the department of health and senior services;

9 (3) "Parent", [either a natural or an adoptive parent] **a birth parent or parents of a**
10 **child, including a putative father of the child, as well as the husband of a birth mother at**
11 **the time the child was conceived, or a parent or parents of a child by adoption;**

12 (4) "Parent and child relationship", the legal relationship existing between a child and
13 his natural or adoptive parents incident to which the law confers or imposes rights, privileges,
14 duties, and obligations. It includes the mother and child relationship and the father and child
15 relationship.

210.861. 1. **Prior to establishment of a tax prescribed by section 210.860 or section**
2 **67.1775, RSMo, the governing body of the city or county or city not within a county may**
3 **appoint a board of directors consisting of nine members, who shall be residents of the city**
4 **or county or city not within a county.** When the tax prescribed by section 210.860 or section
5 67.1775, RSMo, is established, the governing body of the city or county or city not within a
6 county shall appoint a board of directors consisting of nine members, who shall be residents of
7 the city or county or city not within a county, **if one has not previously been appointed.** All
8 board members shall be appointed to serve for a term of three years, except that of the first board
9 appointed, three members shall be appointed for one-year terms, three members for two-year
10 terms and three members for three-year terms. Board members may be reappointed. In a city
11 not within a county, or any county of the first classification with a charter form of government
12 with a population not less than nine hundred thousand inhabitants, or any county of the first
13 classification with a charter form of government with a population not less than two hundred
14 thousand inhabitants and not more than six hundred thousand inhabitants, or any noncharter
15 county of the first classification with a population not less than one hundred seventy thousand
16 and not more than two hundred thousand inhabitants, or any noncharter county of the first
17 classification with a population not less than eighty thousand and not more than eighty-three
18 thousand inhabitants, or any third classification county with a population not less than
19 twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the third
20 classification with a population not less than nineteen thousand five hundred and not more than
21 twenty thousand inhabitants the members of the community mental health board of trustees
22 appointed pursuant to the provisions of sections 205.975 to 205.990, RSMo, shall be the board

23 members for the community children's services fund. The directors shall not receive
24 compensation for their services, but may be reimbursed for their actual and necessary expenses.

25 2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as
26 it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety
27 bond, in an amount to be determined and in a form to be approved by the board, for the faithful
28 performance of his or her duties and faithful accounting of all moneys that may come into his
29 or her hands. The treasurer shall enter into the surety bond with a surety company authorized
30 to do business in Missouri, and the cost of such bond shall be paid by the board of directors. The
31 board shall administer and expend all funds generated pursuant to section 210.860 or section
32 67.1775, RSMo, in a manner consistent with this section.

33 3. **Once established, the board may, in its own name, engage in and contract for any**
34 **and all types of services, actions, or endeavors, not contrary to the law, necessary to the**
35 **successful and efficient prosecution and continuation of the business and purposes for**
36 **which it is created, including conducting needs assessments, engaging in planning for the**
37 **delivery of services, applying for grants from federal, state, or local governments or other**
38 **public or private entities, accepting donations, and expending funds.**

39 4. The board may contract with public or not-for-profit agencies licensed or certified
40 where appropriate to provide qualified services and may place conditions on the use of such
41 funds. The board shall reserve the right to audit the expenditure of any and all funds. The board
42 and any agency with which the board contracts may establish eligibility standards for the use of
43 such funds and the receipt of services. No member of the board shall serve on the governing
44 body, have any financial interest in, or be employed by any agency which is a recipient of funds
45 generated pursuant to **this section and** section 210.860 or section 67.1775, RSMo.

46 [4.] 5. Revenues collected and deposited in the community children's services fund may
47 be expended for the purchase of the following services:

48 (1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or
49 emotionally disturbed youth; respite care services; and services to unwed mothers;

50 (2) Outpatient chemical dependency and psychiatric treatment programs; counseling and
51 related services as a part of transitional living programs; home-based and community-based
52 family intervention programs; unmarried parent services; crisis intervention services, inclusive
53 of telephone hotlines; and prevention programs which promote healthy lifestyles among children
54 and youth and strengthen families;

55 (3) Individual, group, or family professional counseling and therapy services;
56 psychological evaluations; and mental health screenings.

57 [5.] 6. Revenues collected and deposited in the community children's services fund may
58 not be expended for inpatient medical, psychiatric, and chemical dependency services, or for
59 transportation services.

210.890. 1. The general assembly finds and declares that it is the natural
2 fundamental right of the parents and legal guardians of unemancipated minors to
3 determine and direct the care, health care, teaching, and education of their children.

4 2. A parent or legal guardian of an unemancipated minor shall have the right to
5 make all health care decisions for such unemancipated minor; except that, such right shall
6 not be construed to supersede or otherwise infringe upon any applicable restrictions
7 imposed by state law.

211.021. As used in this chapter, unless the context clearly requires otherwise:

2 (1) "Adult" means a person seventeen years of age or older;

3 (2) "Child" means a person under seventeen years of age;

4 (3) "Juvenile court" means the juvenile division or divisions of the circuit court of the
5 county, or judges while hearing juvenile cases assigned to them;

6 (4) "Legal custody" means the right to the care, custody and control of a child and the
7 duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline
8 of a child. Legal custody may be taken from a parent only by court action and if the legal
9 custody is taken from a parent without termination of parental rights, the parent's duty to provide
10 support continues even though the person having legal custody may provide the necessities of
11 daily living;

12 (5) "Parent" means [either a natural parent or a parent by adoption and if the child is
13 illegitimate, "parent" means the mother] **a birth parent or parents of a child, including a
14 putative father of the child, as well as the husband of a birth mother at the time the child
15 was conceived, or a parent or parents of a child by adoption. The putative father of the
16 child shall have no legal relationship unless he has acknowledged the child on his own by
17 affirmatively asserting his paternity;**

18 (6) "Shelter care" means the temporary care of juveniles in physically unrestricting
19 facilities pending final court disposition. These facilities may include:

20 (a) "Foster home", the private home of foster parents providing twenty-four-hour care
21 to one to three children unrelated to the foster parents by blood, marriage or adoption;

22 (b) "Group foster home", the private home of foster parents providing twenty-four-hour
23 care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

24 (c) "Group home", a child care facility which approximates a family setting, provides
25 access to community activities and resources, and provides care to no more than twelve children.

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen [and one-half] years of age who is alleged to have violated a state or municipal traffic
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall
45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

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

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

52 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
53 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
54 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
55 court, to the county of the child's residence or the residence of the person seventeen years of age
56 for future action;

57 (2) Upon the motion of any party or on its own motion prior to final disposition on the
58 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
59 a child or person seventeen years of age to the court located in the county of the child's residence
60 or the residence of the person seventeen years of age, or the county in which the offense pursuant
61 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

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

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

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

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

79 3. In any proceeding involving any child or person seventeen years of age taken into
80 custody in a county other than the county of the child's residence or the residence of a person
81 seventeen years of age, the juvenile court of the county of the child's residence or the residence
82 of a person seventeen years of age shall be notified of such taking into custody within
83 seventy-two hours.

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

211.038. 1. A child under the jurisdiction of the juvenile court 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, any of the following offenses when a child was the victim:

4 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
5 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
6 566.209, 566.212, or 566.215, RSMo;

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

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

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

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

11 (6) A violation of section 568.090, RSMo; [or]

12 (7) A violation of section 568.175, RSMo; **or**

13 **(8) Any offense committed in another state which would constitute a violation**
14 **under subdivisions (1) to (7) of this subsection.**

15 2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
16 listed in subsection 1 of this section or for a violation of an offense committed in another state
17 **which would not constitute a violation under subdivisions (1) to (7) of subsection 1 of this**

18 **section** when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if
19 committed in Missouri, the juvenile court may exercise its discretion regarding the placement
20 of a child under the jurisdiction of the juvenile court in a home in which a parent or any person
21 residing in the home has been found guilty of, or pled guilty to, any such offense.

22 3. If the juvenile court determines that a child has abused another child, such abusing
23 child shall be prohibited from returning to or residing in any residence located within one
24 thousand feet of the residence of the abused child, or any child care facility or school that the
25 abused child attends, until the abused child reaches eighteen years of age. The prohibitions of
26 this subsection shall not apply where the alleged abuse occurred between siblings or children
27 living in the same home.

211.321. 1. Records of juvenile court proceedings as well as all information obtained
2 and social records prepared in the discharge of official duty for the court shall not be open to
3 inspection or their contents disclosed, except by order of the court to persons having a legitimate
4 interest therein, unless a petition or motion to modify is sustained which charges the child with
5 an offense which, if committed by an adult, would be a class A felony under the criminal code
6 of Missouri, or capital murder, first degree murder, or second degree murder or except as
7 provided in subsection 2 of this section. In addition, whenever a report is required under section
8 557.026, RSMo, there shall also be included a complete list of certain violations of the juvenile
9 code for which the defendant had been adjudicated a delinquent while a juvenile. This list shall
10 be made available to the probation officer and shall be included in the presentence report. The
11 violations to be included in the report are limited to the following: rape, sodomy, murder,
12 kidnapping, robbery, arson, burglary or any acts involving the rendering or threat of serious
13 bodily harm. The supreme court may promulgate rules to be followed by the juvenile courts in
14 separating the records.

15 2. In all proceedings under subdivision (2) of subsection 1 of section 211.031, the
16 records of the juvenile court as well as all information obtained and social records prepared in
17 the discharge of official duty for the court shall be kept confidential and shall be open to
18 inspection only by order of the judge of the juvenile court or as otherwise provided by statute.
19 In all proceedings under subdivision (3) of subsection 1 of section 211.031 the records of the
20 juvenile court as well as all information obtained and social records prepared in the discharge
21 of official duty for the court shall be kept confidential and may be open to inspection without
22 court order only as follows:

23 (1) The juvenile officer is authorized at any time:

24 (a) To provide information to or discuss matters concerning the child, the violation of
25 law or the case with the victim, witnesses, officials at the child's school, law enforcement
26 officials, prosecuting attorneys, any person or agency having or proposed to have legal or actual

27 care, custody or control of the child, or any person or agency providing or proposed to provide
28 treatment of the child. Information received pursuant to this paragraph shall not be released to
29 the general public, but shall be released only to the persons or agencies listed in this paragraph;

30 (b) To make public information concerning the offense, the substance of the petition, the
31 status of proceedings in the juvenile court and any other information which does not specifically
32 identify the child or the child's family;

33 (2) After a child has been adjudicated delinquent pursuant to subdivision (3) of
34 subsection 1 of section 211.031, for an offense which would be a felony if committed by an
35 adult, the records of the dispositional hearing and proceedings related thereto shall be open to
36 the public to the same extent that records of criminal proceedings are open to the public.
37 However, the social summaries, investigations or updates in the nature of presentence
38 investigations, and status reports submitted to the court by any treating agency or individual after
39 the dispositional order is entered shall be kept confidential and shall be opened to inspection only
40 by order of the judge of the juvenile court;

41 (3) As otherwise provided by statute;

42 (4) In all other instances, only by order of the judge of the juvenile court.

43 3. Peace officers' records, if any are kept, of children shall be kept separate from the
44 records of persons seventeen years of age or over and shall not be open to inspection or their
45 contents disclosed, except by order of the court. This subsection does not apply to children who
46 are transferred to courts of general jurisdiction as provided by section 211.071 or to juveniles
47 convicted under the provisions of sections 578.421 to 578.437, RSMo. **This subsection does**
48 **not prohibit a peace officer of this state, upon written request by another peace officer of**
49 **this state or any other state, the federal government, or a prosecuting attorney of this state**
50 **or any other state, from disclosing or permitting inspection of records, information, or**
51 **reports concerning a person less than seventeen years of age for purposes of investigation**
52 **of a matter within his or her jurisdiction.** This subsection does not apply to the inspection or
53 disclosure of the contents of the records of peace officers for the purpose of pursuing a civil
54 forfeiture action pursuant to the provisions of section 195.140, RSMo.

55 4. Nothing in this section shall be construed to prevent the release of information and
56 data to persons or organizations authorized by law to compile statistics relating to juveniles. The
57 court shall adopt procedures to protect the confidentiality of children's names and identities.

58 5. The court may, either on its own motion or upon application by the child or his
59 representative, or upon application by the juvenile officer, enter an order to destroy all social
60 histories, records, and information, other than the official court file, and may enter an order to
61 seal the official court file, as well as all peace officers' records, at any time after the child has
62 reached his seventeenth birthday if the court finds that it is in the best interest of the child that

63 such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond
64 the child's seventeenth birthday, in which event such action or any part thereof may be taken by
65 the court at any time after the closing of the child's case.

66 6. Nothing in this section shall be construed to prevent the release of general information
67 regarding the informal adjustment or formal adjudication of the disposition of a child's case to
68 a victim or a member of the immediate family of a victim of any offense committed by the child.
69 Such general information shall not be specific as to location and duration of treatment or
70 detention or as to any terms of supervision.

71 7. Records of juvenile court proceedings as well as all information obtained and social
72 records prepared in the discharge of official duty for the court shall be disclosed to the child
73 fatality review panel reviewing the child's death pursuant to section 210.192, RSMo, unless the
74 juvenile court on its own motion, or upon application by the juvenile officer, enters an order to
75 seal the records of the victim child.

211.393. 1. For purposes of this section, the following words and phrases mean:

2 (1) "County retirement plan", any public employees' defined benefit retirement plan
3 established by law that provides retirement benefits to county or city employees, but not to
4 include the county employees' retirement system as provided in sections 50.1000 to 50.1200,
5 RSMo;

6 (2) "Juvenile court employee", any person who is employed by a juvenile court in a
7 position normally requiring one thousand hours or more of service per year;

8 (3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;

9 (4) "Multicounty circuit", all other judicial circuits not included in the definition of a
10 single county circuit;

11 (5) "Single county circuit", a judicial circuit composed of a single county of the first
12 classification, including the circuit for the city of St. Louis;

13 (6) "State retirement plan", the public employees' retirement plan administered by the
14 Missouri state employees' retirement system pursuant to chapter 104, RSMo.

15 2. Juvenile court employees employed in a single county circuit shall be subject to the
16 following provisions:

17 (1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:

18 (a) Be state employees on that portion of their salary received from the state pursuant to
19 section 211.381, and in addition be county employees on that portion of their salary provided by
20 the county at a rate determined pursuant to section 50.640, RSMo;

21 (b) Receive state-provided benefits, including retirement benefits from the state
22 retirement plan, on that portion of their salary paid by the state and may participate as members
23 in a county retirement plan on that portion of their salary provided by the county except any

24 juvenile officer whose service as a juvenile court officer is being credited based on all salary
25 received from any source in a county retirement plan on June 30, 1999, shall not be eligible to
26 receive state-provided benefits, including retirement benefits, or any creditable prior service as
27 described in this section but shall continue to participate in such county retirement plan;

28 (c) Receive creditable prior service in the state retirement plan for service rendered as
29 a juvenile court employee prior to July 1, 1999, to the extent they have not already received
30 credit for such service in a county retirement plan on salary paid to them for such service, if such
31 service was rendered in a single county circuit or a multicounty circuit; except that if the juvenile
32 officer forfeited such credit in such county retirement plan prior to being eligible to receive
33 creditable prior service under this paragraph, they may receive service under this paragraph;

34 (d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even
35 though they already have received credit for such creditable service in a county retirement plan
36 if they elect to forfeit their creditable service from such plan in which case such plan shall
37 transfer to the state retirement plan an amount equal to the actuarial accrued liability for the
38 forfeited creditable service, determined as if the person were going to continue to be an active
39 member of the county retirement plan, less the amount of any refunds of member contributions;

40 (e) Receive creditable prior service for service rendered as a juvenile court employee in
41 a multicounty circuit in a position that was financed in whole or in part by a public or private
42 grant, pursuant to the provisions of paragraph (e) of subdivision (1) of subsection 3 of this
43 section;

44 (2) Juvenile officers who begin employment for the first time as a juvenile officer in a
45 single county circuit on or after July 1, 1999, shall:

46 (a) Be county employees and receive salary from the county at a rate determined
47 pursuant to section 50.640, RSMo, subject to reimbursement by the state as provided in section
48 211.381; and

49 (b) Participate as members in the applicable county retirement plan subject to
50 reimbursement by the state for the retirement contribution due on that portion of salary
51 reimbursed by the state;

52 (3) All other juvenile court employees who are employed in a single county circuit on
53 or after July 1, 1999:

54 (a) Shall be county employees and receive a salary from the county at a rate determined
55 pursuant to section 50.640, RSMo; and

56 (b) Shall, in accordance with their status as county employees, receive other
57 county-provided benefits including retirement benefits from the applicable county retirement
58 plan if such employees otherwise meet the eligibility requirements for such benefits;

59 (4) (a) The state shall reimburse each county comprised of a single county circuit for an
60 amount equal to the greater of:

61 a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding
62 the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement,
63 health and other fringe benefits; or

64 b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile
65 officer class I, as provided in section 211.381;

66 (b) The state may reimburse a single county circuit up to fifty percent of such circuit's
67 total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state
68 may reimburse, subject to appropriations, the following percentages of such circuits' total
69 juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a
70 juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty
71 percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until
72 June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any
73 reimbursement from the state in an amount less than the greater of:

74 a. Twenty-five percent of the total juvenile court personnel budget of the single county
75 circuit expended for calendar year 1997, excluding fringe benefits; or

76 b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile
77 officer class I, as provided in section 211.381;

78 (5) Each single county circuit shall file a copy of its initial 1997 and each succeeding
79 year's budget with the office of the state courts administrator after January first each year and
80 prior to reimbursement. The office of the state courts administrator shall make payment for the
81 reimbursement from appropriations made for that purpose on or before July fifteenth of each year
82 following the calendar year in which the expenses were made. The office of the state courts
83 administrator shall submit the information from the budgets relating to full-time juvenile court
84 personnel from each county to the general assembly;

85 (6) Any single county circuit may apply to the office of the state courts administrator to
86 become subject to subsection 3 of this section, and such application shall be approved subject
87 to appropriation of funds for that purpose;

88 (7) The state auditor may audit any single county circuit to verify compliance with the
89 requirements of this section, including an audit of the 1997 budget.

90 3. Juvenile court employees in multicounty circuits shall be subject to the following
91 provisions:

92 (1) Juvenile court employees including detention personnel hired in 1998 in those
93 multicounty circuits who began actual construction on detention facilities in 1996, employed in
94 a multicounty circuit on or after July 1, 1999, shall:

95 (a) Not be state employees unless they receive all salary from the state, which shall
96 include any salary as provided in section 211.381 in addition to any salary provided by the
97 applicable county or counties during calendar year 1997 and any general salary increase approved
98 by the state of Missouri for fiscal year 1999 and fiscal year 2000;

99 (b) Participate in the state retirement plan;

100 (c) Receive creditable prior service in the state retirement plan for service rendered as
101 a juvenile court employee prior to July 1, 1999, to the extent they have not already received
102 credit for such service in a county retirement plan on salary paid to them for such service if such
103 service was rendered in a single county circuit or a multicounty circuit, except that if they
104 forfeited such credit in such county retirement plan prior to being eligible to receive creditable
105 prior service under this paragraph, they may receive creditable service under this paragraph;

106 (d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even
107 though they already have received credit for such creditable service in a county retirement plan
108 if they elect within six months from the date they become participants in the state retirement plan
109 pursuant to this section to forfeit their service from such plan in which case such plan shall
110 transfer to the state retirement plan an amount equal to the actuarial accrued liability for the
111 forfeited creditable service, determined as if the person was going to continue to be an active
112 member of the county retirement plan, less the amount of any refunds of member contributions;

113 (e) Receive creditable prior service for service rendered as a juvenile court employee in
114 a multicounty circuit in a position that was financed in whole or in part by a public or private
115 grant to the extent they have not already received credit for such service in a county retirement
116 plan on salary paid to them for such service except that if they:

117 a. Forfeited such credit in such county retirement plan prior to being eligible to receive
118 creditable service under this paragraph, they may receive creditable service under paragraph (e)
119 of this subdivision;

120 b. Received credit for such creditable service in a county retirement plan, they may not
121 receive creditable prior service pursuant to paragraph (e) of this subdivision unless they elect to
122 forfeit their service from such plan, in which case such plan shall transfer to the state retirement
123 plan an amount equal to the actuarial liability for the forfeited creditable service, determined as
124 if the person was going to continue to be an active member of the county retirement plan, less
125 the amount of any refunds of member contributions;

126 c. Terminated employment prior to August 28, 2007, and apply to the board of trustees
127 of the state retirement plan to be made and employed as a special consultant and be available to
128 give opinions regarding retirement they may receive creditable service under paragraph (e) of this
129 subdivision;

d. Retired prior to August 28, 2007, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement, they shall have their retirement benefits adjusted so they receive retirement benefits equal to the amount they would have received had their retirement benefit been initially calculated to include such creditable prior service; or

e. Purchased creditable prior service pursuant to section 104.344, RSMo, or section 105.691, RSMo, based on service as a juvenile court employee in a position that was financed in whole or in part by a public or private grant, they shall receive a refund based on the amount paid for such purchased service;

(2) Juvenile court employee positions added after December 31, 1997, shall be terminated and not subject to the provisions of subdivision (1) of this subsection, unless the office of the state courts administrator requests and receives an appropriation specifically for such positions;

(3) The salary of any juvenile court employee who becomes a state employee, effective July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set in accordance with guidelines established by the state pursuant to a salary survey conducted by the office of the state courts administrator, but such salary shall in no event be less than the amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled to additional compensation paid by a county as a public officer or employee. Such employees shall be considered employees of the judicial branch of state government for all purposes;

(4) All other employees of a multicounty circuit who are not juvenile court employees as defined in subsection 1 of this section shall be county employees subject to the county's own terms and conditions of employment.

4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1) of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section is contingent upon the office of the state courts administrator providing the state retirement plan information, in a form subject to verification and acceptable to the state retirement plan, indicating the dates of service and amount of monthly salary paid to each juvenile court employee for such creditable prior service.

5. No juvenile court employee employed by any single or multicounty circuit shall be eligible to participate in the county employees' retirement system fund pursuant to sections 50.1000 to 50.1200, RSMo.

6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as "maintenance of effort funding", not less than the total amount budgeted for all employees of the

juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640, RSMo.

7. Any person who is employed on or after July 1, 1999, in a position covered by the state retirement plan or the [transportation] **Missouri** department of **transportation** and highway patrol **employees'** retirement system and who has rendered service as a juvenile court employee in a judicial circuit that was not a single county of the first classification shall be eligible to receive creditable prior service in such plan or system as provided in subsections 2 and 3 of this section. For purposes of this subsection, the provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state retirement plan shall also apply to the transportation department and highway patrol retirement system.

8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided by this section unless such juvenile officer elects to:

(a) Receive retirement benefits from the state retirement plan based on all years of service as a juvenile officer and a final average salary which shall include salary paid by the county and the state; and

(b) Forfeit any county retirement benefits from any county retirement plan based on service rendered as a juvenile officer.

(2) Upon making the election described in this subsection, the county retirement plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions.

9. The elections described in this section shall be made on forms developed and made available by the state retirement plan.

211.442. As used in sections 211.442 to 211.487, unless the context clearly indicates otherwise, the following terms mean:

- 3 (1) "Child", an individual under eighteen years of age;
- 4 (2) "Minor", any person who has not attained the age of eighteen years;
- 5 (3) "Parent", a [biological] **birth** parent or parents of a child, **including a putative**
6 **father of the child**, as well as, the husband of a [natural] **birth** mother at the time the child was
7 conceived, or a parent or parents of a child by adoption[, including both the mother and the
8 putative father of a child]. The putative father of a child shall have no legal relationship unless
9 he[, prior to the entry of a decree under sections 211.442 to 211.487,] has acknowledged the
10 child as his own by affirmatively asserting his paternity.

211.447. 1. Any information that could justify the filing of a petition to terminate
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
6 informant may bring the matter directly to the attention of the judge of the juvenile court by
7 presenting the information in writing, and if it appears to the judge that the information could
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,
9 including making a further preliminary inquiry or filing a petition.

10 2. Except as provided for in subsection 4 of this section, a petition to terminate the
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
13 to be joined as a party to the petition, when **one or more of the following grounds for**
14 **termination exist:**

15 (1) Information available to the juvenile officer or the division establishes that the child
16 has been in foster care for at least fifteen of the most recent twenty-two months; or

17 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
18 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
19 of filing of the petition. The court may find that an infant has been abandoned if:

20 (a) The parent has left the child under circumstances that the identity of the child was
21 unknown and could not be ascertained, despite diligent searching, and the parent has not come
22 forward to claim the child; or

23 (b) The parent has, without good cause, left the child without any provision for parental
24 support and without making arrangements to visit or communicate with the child, although able
25 to do so; or

26 (3) A court of competent jurisdiction has determined that the parent has:

- 27 (a) Committed murder of another child of the parent; or
28 (b) Committed voluntary manslaughter of another child of the parent; or
29 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
30 voluntary manslaughter; [or]
31 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
32 another child of the parent; or
33 (e) **The parent has been found guilty or pled guilty to a felony violation of chapter**
34 **566, RSMo, when the child or any child in the family was a victim, or a violation of section**
35 **568.020, RSMo, when the child or any child in the family was a victim. As used in this**
36 **paragraph, "child" means any person less than eighteen years of age at the time of the**
37 **crime and who resided with such parent or was related within the third degree of**
38 **consanguinity or affinity to such parent; or**
39 (4) **A court of competent jurisdiction has determined that a child shall not be**
40 **reunited with a parent or placed in a home of a parent under section 211.038.**
41 3. A termination of parental rights petition shall be filed by the juvenile officer or the
42 division, or if such a petition has been filed by another party, the juvenile officer or the division
43 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
44 required in subsection 2 of this section, except as provided in subsection 4 of this section.
45 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate
46 a petition for termination of parental rights which is filed outside of sixty days.
47 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
48 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
49 the parental rights of the child's parent or parents if:
50 (1) The child is being cared for by a relative; or
51 (2) There exists a compelling reason for determining that filing such a petition would
52 not be in the best interest of the child, as documented in the permanency plan which shall be
53 made available for court review; or
54 (3) The family of the child has not been provided such services as provided for in section
55 211.183.
56 5. The juvenile officer or the division may file a petition to terminate the parental rights
57 of the child's parent when it appears that one or more of the following grounds for termination
58 exist:
59 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
60 child over one year of age at the time of filing of the petition. The court shall find that the child
61 has been abandoned if, for a period of six months or longer:

62 (a) The parent has left the child under such circumstances that the identity of the child
63 was unknown and could not be ascertained, despite diligent searching, and the parent has not
64 come forward to claim the child; or

65 (b) The parent has, without good cause, left the child without any provision for parental
66 support and without making arrangements to visit or communicate with the child, although able
67 to do so;

68 (2) The child has been abused or neglected. In determining whether to terminate parental
69 rights pursuant to this subdivision, the court shall consider and make findings on the following
70 conditions or acts of the parent:

71 (a) A mental condition which is shown by competent evidence either to be permanent
72 or such that there is no reasonable likelihood that the condition can be reversed and which
73 renders the parent unable to knowingly provide the child the necessary care, custody and control;

74 (b) Chemical dependency which prevents the parent from consistently providing the
75 necessary care, custody and control of the child and which cannot be treated so as to enable the
76 parent to consistently provide such care, custody and control;

77 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
78 or any child in the family by the parent, including an act of incest, or by another under
79 circumstances that indicate that the parent knew or should have known that such acts were being
80 committed toward the child or any child in the family; or

81 (d) Repeated or continuous failure by the parent, although physically or financially able,
82 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
83 care and control necessary for the child's physical, mental, or emotional health and development;

84 (3) The child has been under the jurisdiction of the juvenile court for a period of one
85 year, and the court finds that the conditions which led to the assumption of jurisdiction still
86 persist, or conditions of a potentially harmful nature continue to exist, that there is little
87 likelihood that those conditions will be remedied at an early date so that the child can be returned
88 to the parent in the near future, or the continuation of the parent-child relationship greatly
89 diminishes the child's prospects for early integration into a stable and permanent home. In
90 determining whether to terminate parental rights under this subdivision, the court shall consider
91 and make findings on the following:

92 (a) The terms of a social service plan entered into by the parent and the division and the
93 extent to which the parties have made progress in complying with those terms;

94 (b) The success or failure of the efforts of the juvenile officer, the division or other
95 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
96 provide a proper home for the child;

97 (c) A mental condition which is shown by competent evidence either to be permanent
98 or such that there is no reasonable likelihood that the condition can be reversed and which
99 renders the parent unable to knowingly provide the child the necessary care, custody and control;

100 (d) Chemical dependency which prevents the parent from consistently providing the
101 necessary care, custody and control over the child and which cannot be treated so as to enable
102 the parent to consistently provide such care, custody and control; or

103 (4) [The parent has been found guilty or pled guilty to a felony violation of chapter 566,
104 RSMo, when the child or any child in the family was a victim, or a violation of section 568.020,
105 RSMo, when the child or any child in the family was a victim. As used in this subdivision, a
106 "child" means any person who was under eighteen years of age at the time of the crime and who
107 resided with such parent or was related within the third degree of consanguinity or affinity to
108 such parent; or

109 (5) The child was conceived and born as a result of an act of forcible rape. When the
110 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such
111 a plea or conviction shall be conclusive evidence supporting the termination of the biological
112 father's parental rights; or

113 [(6)] (5) The parent is unfit to be a party to the parent and child relationship because of
114 a consistent pattern of committing a specific abuse, including but not limited to, abuses as
115 defined in section 455.010, RSMo, child abuse or drug abuse before the child or of specific
116 conditions directly relating to the parent and child relationship either of which are determined
117 by the court to be of a duration or nature that renders the parent unable, for the reasonably
118 foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of
119 the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon
120 a showing that within a three-year period immediately prior to the termination adjudication, the
121 parent's parental rights to one or more other children were involuntarily terminated pursuant to
122 subsection 2 or 4 of this section or [subdivisions] **subdivision** (1), (2), **or** (3) [or (4)] of **this**
123 subsection [5 of this section] or similar laws of other states.

124 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed
125 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court
126 finds that the termination is in the best interest of the child and when it appears by clear, cogent
127 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of
128 this section.

129 7. When considering whether to terminate the parent-child relationship pursuant to
130 subsection 2 or 4 of this section or subdivision (1), (2), **or** (3) [or (4)] of subsection 5 of this
131 section, the court shall evaluate and make findings on the following factors, when appropriate
132 and applicable to the case:

- 133 (1) The emotional ties to the birth parent;
- 134 (2) The extent to which the parent has maintained regular visitation or other contact with
135 the child;
- 136 (3) The extent of payment by the parent for the cost of care and maintenance of the child
137 when financially able to do so including the time that the child is in the custody of the division
138 or other child-placing agency;
- 139 (4) Whether additional services would be likely to bring about lasting parental
140 adjustment enabling a return of the child to the parent within an ascertainable period of time;
- 141 (5) The parent's disinterest in or lack of commitment to the child;
- 142 (6) The conviction of the parent of a felony offense that the court finds is of such a
143 nature that the child will be deprived of a stable home for a period of years; provided, however,
144 that incarceration in and of itself shall not be grounds for termination of parental rights;
- 145 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
146 have known that subjects the child to a substantial risk of physical or mental harm.
- 147 8. The court may attach little or no weight to infrequent visitations, communications, or
148 contributions. It is irrelevant in a termination proceeding that the maintenance of the
149 parent-child relationship may serve as an inducement for the parent's rehabilitation.
- 150 9. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and
151 determine the issues raised in a petition for adoption containing a prayer for termination of
152 parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or
153 5 of this section.

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