

SECOND REGULAR SESSION

HOUSE BILL NO. 2143

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHAD (Sponsor), SANDER,
MOORE AND RUESTMAN (Co-sponsors).

Read 1st time February 14, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4827L.01I

AN ACT

To repeal sections 210.150 and 210.152, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect, with penalty provisions.

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

Section A. Sections 210.150 and 210.152, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.150 and 210.152, to read as follows:

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.

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.

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;

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

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

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

119 (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,

21 identifying information shall be retained for two years from the conclusion of the investigation.
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23 Such reports shall include any exculpatory evidence known by the division, including
24 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
25 identifying information shall be removed from the records of the division and destroyed;

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

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

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

35 (1) That the division has determined by a probable cause finding prior to August 28,
36 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.

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