

SECOND REGULAR SESSION

HOUSE BILL NO. 2440

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHOELLER (Sponsor), DIXON, MARSH, LAMPE, NORR,
DENISON, VIEBROCK AND CUNNINGHAM (145) (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

4860L.01I

AN ACT

To repeal sections 210.135 and 210.145, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect.

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

Section A. Sections 210.135 and 210.145, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.135 and 210.145, to read as follows:

210.135. **1.** Any person, official, or institution complying with the provisions of sections
2 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of
3 radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color
4 photographs and making of radiologic examinations, or the removal or retaining a child pursuant
5 to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement
6 agency, juvenile office, court, or child-protective service agency of this or any other state, in any
7 of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse,
8 neglect or assault, pursuant to sections 568.045 to 568.060, RSMo, shall have immunity from
9 any liability, civil or criminal, that otherwise might result by reason of such actions. Provided,
10 however, any person, official or institution intentionally filing a false report, acting in bad faith,
11 or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person,
12 official, or institution shall have the same immunity with respect to participation in any judicial
13 proceeding resulting from the report.

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. In a case in which a child dies or is seriously injured after a report is made under**
15 **sections 210.109 to 210.165, the hotline worker or workers taking any reports related to**
16 **such case and division case worker or workers assigned to the investigation of such report**
17 **shall receive a preliminary evaluation by the division to determine if an assessment to**
18 **establish whether the worker is able to competently perform his or her duties of each**
19 **worker is required. If required, the assessment shall be completed within three days of the**
20 **child's death.**

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

- 2 (1) Ensuring the well-being and safety of the child in instances where child abuse or
3 neglect has been alleged;
- 4 (2) Promoting the preservation and reunification of children and families consistent with
5 state and federal law;
- 6 (3) Providing due process for those accused of child abuse or neglect; and
- 7 (4) Maintaining an information system operating at all times, capable of receiving and
8 maintaining reports. This information system shall have the ability to receive reports over a
9 single, statewide toll-free number. Such information system shall maintain the results of all
10 investigations, family assessments and services, and other relevant information.

11 2. The division shall utilize structured decision-making protocols for classification
12 purposes of all child abuse and neglect reports. The protocols developed by the division shall
13 give priority to ensuring the well-being and safety of the child. All child abuse and neglect
14 reports shall be initiated within twenty-four hours and shall be classified based upon the reported
15 risk and injury to the child. The division shall promulgate rules regarding the structured
16 decision-making protocols to be utilized for all child abuse and neglect reports.

17 3. Upon receipt of a report, the division shall determine if the report merits investigation,
18 including reports which if true would constitute a suspected violation of any of the following:
19 section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than
20 eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than
21 eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than
22 eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050,
23 RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045,
24 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040,
25 RSMo, or an attempt to commit any such crimes. The division shall immediately communicate
26 all reports that merit investigation to its appropriate local office and any relevant information as
27 may be contained in the information system. The local division staff shall determine, through
28 the use of protocols developed by the division, whether an investigation or the family assessment

29 and services approach should be used to respond to the allegation. The protocols developed by
30 the division shall give priority to ensuring the well-being and safety of the child.

31 **4. Repeated calls to the child abuse and neglect hotline on the same child within a**
32 **seventy-two-hour period shall result in a review by the division to determine if the calls**
33 **meet the criteria and statutory definition for a child abuse and neglect report to be**
34 **accepted.**

35 **5.** The local office shall contact the appropriate law enforcement agency immediately
36 upon receipt of a report which division personnel determine merits an investigation and provide
37 such agency with a detailed description of the report received. In such cases the local division
38 office shall request the assistance of the local law enforcement agency in all aspects of the
39 investigation of the complaint. The appropriate law enforcement agency shall either assist the
40 division in the investigation or provide the division, within twenty-four hours, an explanation
41 in writing detailing the reasons why it is unable to assist.

42 **[5.] 6.** The local office of the division shall cause an investigation or family assessment
43 and services approach to be initiated in accordance with the protocols established in subsection
44 2 of this section, except in cases where the sole basis for the report is educational neglect. If the
45 report indicates that educational neglect is the only complaint and there is no suspicion of other
46 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
47 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
48 investigation shall include direct observation of the subject child within twenty-four hours of the
49 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
50 observation. **Callers to the child abuse and neglect hotline shall be instructed by the**
51 **division's hotline to call 911 in instances where the child may be in immediate danger.** If
52 the parents of the child are not the alleged abusers, a parent of the child must be notified prior
53 to the child being interviewed by the division. **No person responding to a child abuse and**
54 **neglect investigation shall leave any documentation of any attempted visit, such as business**
55 **cards, pamphlets, or other similar identifying information if no person is present at the**
56 **time of the home visit.** If the abuse is alleged to have occurred in a school or child-care facility
57 the division shall not meet with the child in any school building or child-care facility building
58 where abuse of such child is alleged to have occurred. When the child is reported absent from
59 the residence, the location and the well-being of the child shall be verified. For purposes of this
60 subsection, child-care facility shall have the same meaning as such term is defined in section
61 210.201.

62 **[6.] 7.** The director of the division shall name at least one chief investigator for each
63 local division office, who shall direct the division response on any case involving a second or
64 subsequent incident regarding the same subject child or perpetrator. The duties of a chief

65 investigator shall include verification of direct observation of the subject child by the division
66 and shall ensure information regarding the status of an investigation is provided to the public
67 school district liaison. The public school district liaison shall develop protocol in conjunction
68 with the chief investigator to ensure information regarding an investigation is shared with
69 appropriate school personnel. The superintendent of each school district shall designate a
70 specific person or persons to act as the public school district liaison. Should the subject child
71 attend a nonpublic school the chief investigator shall notify the school principal of the
72 investigation. Upon notification of an investigation, all information received by the public
73 school district liaison or the school shall be subject to the provisions of the federal Family
74 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
75 C.F.R., Part 99.

76 [7.] 8. The investigation shall include but not be limited to the nature, extent, and cause
77 of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect;
78 the names and conditions of other children in the home, if any; the home environment and the
79 relationship of the subject child to the parents or other persons responsible for the child's care;
80 any indication of incidents of physical violence against any other household or family member;
81 and other pertinent data.

82 [8.] 9. When a report has been made by a person required to report under section
83 210.115, the division shall contact the person who made such report within forty-eight hours of
84 the receipt of the report in order to ensure that full information has been received and to obtain
85 any additional information or medical records, or both, that may be pertinent.

86 [9.] 10. Upon completion of the investigation, if the division suspects that the report was
87 made maliciously or for the purpose of harassment, the division shall refer the report and any
88 evidence of malice or harassment to the local prosecuting or circuit attorney.

89 [10.] 11. Multidisciplinary teams shall be used whenever conducting the investigation
90 as determined by the division in conjunction with local law enforcement. Multidisciplinary
91 teams shall be used in providing protective or preventive social services, including the services
92 of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court,
93 and other agencies, both public and private.

94 [11.] 12. For all family support team meetings involving an alleged victim of child abuse
95 or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or
96 custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the
97 child shall be provided notice and be permitted to attend all such meetings. Family members,
98 other than alleged perpetrators, or other community informal or formal service providers that
99 provide significant support to the child and other individuals may also be invited at the discretion
100 of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal

101 guardian or custodian and the foster parents may request that other individuals, other than alleged
102 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
103 attends such team meetings, the division or the convenor of the meeting shall provide such
104 persons with notice of all such subsequent meetings involving the child. Families may determine
105 whether individuals invited at their discretion shall continue to be invited.

106 [12.] 13. If the appropriate local division personnel determine after an investigation has
107 begun that completing an investigation is not appropriate, the division shall conduct a family
108 assessment and services approach. The division shall provide written notification to local law
109 enforcement prior to terminating any investigative process. The reason for the termination of
110 the investigative process shall be documented in the record of the division and the written
111 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
112 any investigation by law enforcement.

113 [13.] 14. If the appropriate local division personnel determines to use a family
114 assessment and services approach, the division shall:

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

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

125 (3) Commence an immediate investigation if at any time during the family assessment
126 and services approach the division determines that an investigation, as delineated in sections
127 210.109 to 210.183, is required. The division staff who have conducted the assessment may
128 remain involved in the provision of services to the child and family;

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

131 [14.] 15. Within thirty days of an oral report of abuse or neglect, the local office shall
132 update the information in the information system. The information system shall contain, at a
133 minimum, the determination made by the division as a result of the investigation, identifying
134 information on the subjects of the report, those responsible for the care of the subject child and
135 other relevant dispositional information. The division shall complete all investigations within
136 thirty days, unless good cause for the failure to complete the investigation is documented in the

137 information system. If a child involved in a pending investigation dies, the investigation shall
138 remain open until the division's investigation surrounding the death is completed. If the
139 investigation is not completed within thirty days, the information system shall be updated at
140 regular intervals and upon the completion of the investigation. The information in the
141 information system shall be updated to reflect any subsequent findings, including any changes
142 to the findings based on an administrative or judicial hearing on the matter.

143 [15.] 16. A person required to report under section 210.115 to the division and any
144 person making a report of child abuse or neglect made to the division which is not made
145 anonymously shall be informed by the division of his or her right to obtain information
146 concerning the disposition of his or her report. Such person shall receive, from the local office,
147 if requested, information on the general disposition of his or her report. Such person may
148 receive, if requested, findings and information concerning the case. Such release of information
149 shall be at the discretion of the director based upon a review of the reporter's ability to assist in
150 protecting the child or the potential harm to the child or other children within the family. The
151 local office shall respond to the request within forty-five days. The findings shall be made
152 available to the reporter within five days of the outcome of the investigation. If the report is
153 determined to be unsubstantiated, the reporter may request that the report be referred by the
154 division to the office of child advocate for children's protection and services established in
155 sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
156 shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for
157 children's protection and services.

158 [16.] 17. In any judicial proceeding involving the custody of a child the fact that a report
159 may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

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

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

167 [17.] 18. In any judicial proceeding involving the custody of a child where the court
168 determines that the child is in need of services [pursuant to subdivision (d)] **under paragraph**
169 **(d) of subdivision (1)** of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the
170 child's parent, guardian or custodian shall not be entered into the registry.

171 [18.] 19. The children's division is hereby granted the authority to promulgate rules and
172 regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to
173 carry out the provisions of sections 210.109 to 210.183.

174 [19.] 20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
175 that is created under the authority delegated in this section shall become effective only if it
176 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
177 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
178 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay
179 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
180 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall
181 be invalid and void.

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