

SECOND REGULAR SESSION

HOUSE BILL NO. 1989

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER (123).

Read 1st time February 5, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4908L.01I

AN ACT

To repeal sections 210.817, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, RSMo, and to enact in lieu thereof eight new sections relating to termination of parental rights.

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

Section A. Sections 210.817, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.817, 211.021, 211.031, 211.038, 211.321, 211.393, 211.442, and 211.447, to read as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

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

- (1) "Blood tests", any medically recognized analysis which uses blood or other body tissue or fluid to isolate and identify genetic or other characteristics in order to determine the probability of paternity or the probability of exclusion of paternity. The term specifically includes, without being limited to, tests employing red cell antigens, white cell antigens, including the human leukocyte antigen (HLA) test, DNA methodology, and serum proteins and enzymes;
- (2) "Bureau", the bureau of vital records of the department of health and senior services;
- (3) "Parent", [either a natural or an adoptive parent] **a birth parent or parents of a child, including a putative father of the child, as well as the husband of a birth mother at the time the child was conceived, or a parent or parents of a child by adoption;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (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.

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
2 court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall
3 have exclusive original jurisdiction in proceedings:

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

6 (a) The parents, or other persons legally responsible for the care and support of the child
7 or person seventeen years of age, neglect or refuse to provide proper support, education which

8 is required by law, medical, surgical or other care necessary for his or her well-being; except that
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or
10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

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

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

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

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

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

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

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

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

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic
33 ordinance or regulation, the violation of which does not constitute a felony, or any child who is
34 alleged to have violated a state or municipal ordinance or regulation prohibiting possession or
35 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;

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

135 e. Purchased creditable prior service pursuant to section 104.344, RSMo, or section
136 105.691, RSMo, based on service as a juvenile court employee in a position that was financed

137 in whole or in part by a public or private grant, they shall receive a refund based on the amount
138 paid for such purchased service;

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

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

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

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

160 5. No juvenile court employee employed by any single or multicounty circuit shall be
161 eligible to participate in the county employees' retirement system fund pursuant to sections
162 50.1000 to 50.1200, RSMo.

163 6. Each county in every circuit in which a juvenile court employee becomes a state
164 employee shall maintain each year in the local juvenile court budget an amount, defined as
165 "maintenance of effort funding", not less than the total amount budgeted for all employees of the
166 juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court
167 employees in calendar year [1997] **2007**, minus the state reimbursements as described in this
168 section received for the calendar year [1997] **2007** personnel costs for the salaries of all such
169 juvenile court employees who become state employees. The juvenile court shall provide a
170 proposed budget to the county commission each year. The budget shall contain a separate
171 section specifying all funds to be expended in the juvenile court. Such funding may be used for
172 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:

(1) "Child", an individual under eighteen years of age;

(2) "Minor", any person who has not attained the age of eighteen years;

(3) "Parent", a [biological] **birth** parent or parents of a child, **including a putative father of the child**, as well as, the husband of a [natural] **birth** mother at the time the child was 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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