

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 69

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STORCH.

0046L.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.327, RSMO, and to enact in lieu thereof one new section relating to the special needs child adoption tax credit.

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

Section A. Section 135.327, RSMO, is repealed and one new section enacted in lieu thereof, to be known as section 135.327, to read as follows:

135.327. 1. As used in this section, the following terms shall mean:

(1) **"Adoption resource center"**, an agency funded by the state to provide all of the following services to preadoptive and postadoptive families to prevent adoption disruption and recruit adoptive parents:

(a) **Information and referral;**

(b) **Training;**

(c) **Parent support groups;**

(d) **Youth support groups;**

(e) **Case-based advocacy;**

(f) **Respite care;**

(g) **Educational advocacy;**

(h) **Crisis intervention;**

(2) **"CASA"**, an entity which receives funding from the court-appointed special advocate fund established under section 476.777, RSMO, including an association based in this state,

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.

15 affiliated with a national association, organized to provide support to entities receiving funding
16 from the court-appointed special advocate fund;

17 [(2)] (3) "Child advocacy centers", the regional child assessment centers listed in
18 subsection 2 of section 210.001, RSMO;

19 [(3)] (4) "Contribution", **the** amount of **a** donation to qualified agency;

20 [(4)] (5) "Crisis care center", entities contracted with this state which provide temporary
21 care for children whose age ranges from birth through seventeen years of age whose parents or
22 guardian are experiencing an unexpected and unstable or serious condition that requires
23 immediate action resulting in short-term care, usually three to five continuous, uninterrupted
24 days, for children who may be at risk for child abuse, neglect, or in an emergency situation;

25 [(5)] (6) "Department", the department of revenue;

26 [(6)] (7) "Director", the director of the department of revenue;

27 [(7)] (8) "Qualified agency", CASA, child advocacy centers, [or] a crisis care center, **or**
28 **an adoption resource center**;

29 [(8)] (9) "Tax liability", the tax due under chapter 143, RSMO, other than taxes withheld
30 under sections 143.191 to 143.265, RSMO.

31 2. [Any person residing in this state who legally adopts a special needs child on or after
32 January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten
33 thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied
34 to taxes due under chapter 143, RSMO. Any business entity providing funds to an employee to
35 enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit
36 of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may
37 be applied to taxes due under such business entity's state tax liability, except that only one ten
38 thousand dollar credit is available for each special needs child that is adopted.

39 3.] Any person residing in this state who proceeds in good faith with the adoption of a
40 special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to
41 ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to
42 taxes due under chapter 143, RSMO; provided, however, that beginning on or after July 1, 2004,
43 two million dollars of the tax credits allowed shall be allocated for the adoption of special needs
44 children who are residents or wards of residents of this state at the time the adoption is initiated.
45 Any business entity providing funds to an employee to enable that employee to proceed in good
46 faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to
47 ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to
48 taxes due under such business entity's state tax liability, except that only one ten thousand dollar
49 credit is available for each special needs child that is adopted.

50 [4.] **3.** Individuals and business entities may claim a tax credit for their total nonrecurring
51 adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the
52 credit shall be allowed when the child is placed in the home. A claim for the remaining fifty
53 percent shall be allowed when the adoption is final. The total of these tax credits shall not
54 exceed the maximum limit of ten thousand dollars per child. [The cumulative amount of tax
55 credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption
56 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars.] The
57 cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for
58 nonrecurring adoption expenses shall not be more than four million dollars but may be increased
59 by appropriation in any fiscal year beginning on or after July 1, 2004; provided, however, that
60 by December thirty-first following each July, if less than two million dollars in credits have been
61 issued for adoption of special needs children who are not residents or wards of residents of this
62 state at the time the adoption is initiated, the remaining amount of the cap shall be available for
63 the adoption of special needs children who are residents or wards of residents of this state at the
64 time the adoption is initiated. For all fiscal years beginning on or after July 1, 2006, applications
65 to claim the adoption tax credit for special needs children who are residents or wards of residents
66 of this state at the time the adoption is initiated shall be filed between July first and April
67 fifteenth of each fiscal year. For all fiscal years beginning on or after July 1, 2006, applications
68 to claim the adoption tax credit for special needs children who are not residents or wards of
69 residents of this state at the time the adoption is initiated shall be filed between July first and
70 December thirty-first of each fiscal year.

71 [5.] **4.** Notwithstanding any provision of law to the contrary, any individual or business
72 entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits
73 claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of
74 the amount sold.

75 [6.] **5.** The director of revenue shall establish a procedure by which, for each fiscal year,
76 the cumulative amount of tax credits authorized in this section is equally apportioned among all
77 taxpayers within the two categories specified in subsection [3] **2** of this section claiming the
78 credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish
79 the procedure described in this subsection in such a manner as to ensure that taxpayers within
80 each category can claim all the tax credits possible up to the cumulative amount of tax credits
81 available for the fiscal year.

82 [7.] **6.** For all tax years beginning on or after January 1, 2006, a tax credit may be
83 claimed in an amount equal to up to fifty percent of a verified contribution to a qualified agency
84 and shall be named the children in crisis tax credit. The minimum amount of any tax credit
85 issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143,

86 RSMO, excluding sections 143.191 to 143.265, RSMO. A contribution verification shall be
87 issued to the taxpayer by the agency receiving the contribution. Such contribution verification
88 shall include the taxpayer's name, Social Security number, amount of tax credit, amount of
89 contribution, the name and address of the agency receiving the credit, and the date the
90 contribution was made. The tax credit provided under this subsection shall be initially filed for
91 the year in which the verified contribution is made.

92 [8.] 7. The cumulative amount of the tax credits redeemed shall not exceed the
93 unclaimed portion of the resident adoption category allocation as described in this section. The
94 director of revenue shall determine the unclaimed portion available. The amount available shall
95 be equally divided among the [three] **four** qualified agencies: CASA, child advocacy centers,
96 [or] crisis care centers, **or adoption resource centers**, to be used towards tax credits issued. In
97 the event tax credits claimed under one agency do not total the allocated amount for that agency,
98 the unused portion for that agency will be made available to the remaining agencies equally. In
99 the event the total amount of tax credits claimed for any one agency exceeds the amount
100 available for that agency, the amount redeemed shall and will be apportioned equally to all
101 eligible taxpayers claiming the credit under that agency. After all children in crisis tax credits
102 have been claimed, any remaining unclaimed portion of the reserved allocation for adoptions of
103 special needs children who are residents or wards of residents of this state shall then be made
104 available for adoption tax credit claims of special needs children who are not residents or wards
105 of residents of this state at the time the adoption is initiated.

106 [9.] 8. Prior to December thirty-first of each year, [the entities listed under the definition
107 of] **each** qualified agency shall apply to the department of social services in order to verify their
108 qualified agency status. Upon a determination that the agency is eligible to be a qualified
109 agency, the department of social services shall provide a letter of eligibility to such agency. No
110 later than February first of each year, the department of social services shall provide a list of
111 qualified agencies to the department of revenue. All tax credit applications to claim the children
112 in crisis tax credit shall be filed between July first and April fifteenth of each fiscal year. A
113 taxpayer shall apply for the children in crisis tax credit by attaching a copy of the contribution
114 verification provided by a qualified agency to such taxpayer's income tax return.

115 [10.] 9. The tax credits provided under this section shall be subject to the provisions of
116 section 135.333.

117 [11.] 10. (1) In the event a credit denial[,] due to lack of available funds[,] causes a
118 balance-due notice to be generated by the department of revenue[,] or any other redeeming
119 agency, the taxpayer [will] **shall** not be held liable for any penalty or interest, provided the
120 balance is paid, or approved payment arrangements have been made, within sixty days from the
121 notice of denial.

(2) In the event the balance is not paid within sixty days from the notice of denial, the remaining balance shall be due and payable under the provisions of chapter 143, RSMO.

[12.] **11.** The director shall calculate the level of appropriation necessary to issue all tax credits for nonresident special needs adoptions applied for under this section and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the division of budget and planning in the office of administration by January thirty-first of each year.

[13.] **12.** The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMO, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMO, and, if applicable, section 536.028, RSMO. This section and chapter 536, RSMO, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMO, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

[14.] **13.** Pursuant to section 23.253, RSMO, of the Missouri sunset act:

(1) The provisions of the new program authorized under subsections 7 to 12 of this section shall automatically sunset six years after August 28, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

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