

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 69
95TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, May 13, 2009, with recommendation that the Senate Committee Substitute do pass.

0046S.04C

TERRY L. SPIELER, Secretary.

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Section A. Section 135.327, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.327, to read as follows: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 licensed, contracted, or funded by the state to provide all of the following preadoptive and postadoptive services to families to prevent adoption disruption and recruit adoptive parents:**

(a) **Information and referral;**

(b) **Training services;**

(c) **Support groups; and**

(d) **Crisis intervention and/or counseling services.**

Adoption resource centers may also provide case-specific or educational advocacy, assistance accessing appropriate respite care, and adoption certification for mental health professionals;

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

[(2)] (3) **"Child advocacy centers", the regional child assessment centers**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 listed in subsection 2 of section 210.001, RSMo;

20 [(3)] (4) "Contribution", amount of donation to qualified agency;

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

27 **(6) "Crisis intervention and/or counseling services", extensive**
28 **one-on-one support in times of crisis or for the prevention of crisis;**

29 [(5)] (7) "Department", the department of revenue;

30 [(6)] (8) "Director", the director of the department of revenue;

31 **(9) "Eligible agency", any adoption resource center located within**
32 **this state;**

33 **(10) "Information and referral services", the provision of**
34 **information regarding the requirements associated with becoming an**
35 **approved adoptive parent as well as referral services to the most**
36 **appropriate agency to meet the needs of the family considering**
37 **adoption or completing the approval process or anytime following the**
38 **adoption finalization;**

39 [(7)] (11) "Qualified agency", CASA, child advocacy centers, or a crisis
40 care center;

41 **(12) "Support groups", environments consisting of peers in which**
42 **participants feel comfortable and supported in discussing their unique**
43 **concerns and circumstances;**

44 [(8)] (13) "Tax liability", the tax due under chapter 143, RSMo, other
45 than taxes withheld under sections 143.191 to 143.265, RSMo;

46 **(14) "Training services", pre-service and in-service training for**
47 **licensed and prospective adoptive parents as required by the children's**
48 **division for approval as an adoptive resource and necessary for the**
49 **maintenance of such approval.**

50 2. Any person residing in this state who legally adopts a special needs
51 child on or after January 1, 1988, and before January 1, 2000, shall be eligible to
52 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
53 expenses for each child adopted that may be applied to taxes due under chapter
54 143, RSMo. Any business entity providing funds to an employee to enable that

55 employee to legally adopt a special needs child shall be eligible to receive a tax
56 credit of up to ten thousand dollars for nonrecurring adoption expenses for each
57 child adopted that may be applied to taxes due under such business entity's state
58 tax liability, except that only one ten thousand dollar credit is available for each
59 special needs child that is adopted.

60 3. Any person residing in this state who proceeds in good faith with the
61 adoption of a special needs child on or after January 1, 2000, shall be eligible to
62 receive a tax credit of up to ten thousand dollars for nonrecurring adoption
63 expenses for each child that may be applied to taxes due under chapter 143,
64 RSMo; provided, however, that beginning on or after July 1, 2004, two million
65 dollars of the tax credits allowed shall be allocated for the adoption of special
66 needs children who are residents or wards of residents of this state at the time
67 the adoption is initiated. Any business entity providing funds to an employee to
68 enable that employee to proceed in good faith with the adoption of a special needs
69 child shall be eligible to receive a tax credit of up to ten thousand dollars for
70 nonrecurring adoption expenses for each child that may be applied to taxes due
71 under such business entity's state tax liability, except that only one ten thousand
72 dollar credit is available for each special needs child that is adopted.

73 4. Individuals and business entities may claim a tax credit for their total
74 nonrecurring adoption expenses in each year that the expenses are incurred. A
75 claim for fifty percent of the credit shall be allowed when the child is placed in
76 the home. A claim for the remaining fifty percent shall be allowed when the
77 adoption is final. The total of these tax credits shall not exceed the maximum
78 limit of ten thousand dollars per child. The cumulative amount of tax credits
79 which may be claimed by taxpayers claiming the credit for nonrecurring adoption
80 expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million
81 dollars. The cumulative amount of tax credits that may be claimed by taxpayers
82 claiming the credit for nonrecurring adoption expenses shall not be more than
83 four million dollars but may be increased by appropriation in any fiscal year
84 beginning on or after July 1, 2004; provided, however, that by December
85 thirty-first following each July, if less than two million dollars in credits have
86 been issued for adoption of special needs children who are not residents or wards
87 of residents of this state at the time the adoption is initiated, the remaining
88 amount of the cap shall be available for the adoption of special needs children
89 who are residents or wards of residents of this state at the time the adoption is
90 initiated. For all fiscal years beginning on or after July 1, 2006, applications to

91 claim the adoption tax credit for special needs children who are residents or
92 wards of residents of this state at the time the adoption is initiated shall be filed
93 between July first and April fifteenth of each fiscal year. For all fiscal years
94 beginning on or after July 1, 2006, applications to claim the adoption tax credit
95 for special needs children who are not residents or wards of residents of this state
96 at the time the adoption is initiated shall be filed between July first and
97 December thirty-first of each fiscal year.

98 5. Notwithstanding any provision of law to the contrary, any individual
99 or business entity may assign, transfer or sell tax credits allowed in this
100 section. Any sale of tax credits claimed pursuant to this section shall be at a
101 discount rate of seventy-five percent or greater of the amount sold.

102 6. The director of revenue shall establish a procedure by which, for each
103 fiscal year, the cumulative amount of tax credits authorized in this section is
104 equally apportioned among all taxpayers within the two categories specified in
105 subsection 3 of this section claiming the credit in that fiscal year. To the
106 maximum extent possible, the director of revenue shall establish the procedure
107 described in this subsection in such a manner as to ensure that taxpayers within
108 each category can claim all the tax credits possible up to the cumulative amount
109 of tax credits available for the fiscal year.

110 7. For all tax years beginning on or after January 1, 2006, a tax credit
111 may be claimed in an amount equal to up to fifty percent of a verified
112 contribution to a qualified agency and shall be named the children in crisis tax
113 credit. The minimum amount of any tax credit issued shall not be less than fifty
114 dollars and shall be applied to taxes due under chapter 143, RSMo, excluding
115 sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to
116 the taxpayer by the agency receiving the contribution. Such contribution
117 verification shall include the taxpayer's name, Social Security number, amount
118 of tax credit, amount of contribution, the name and address of the agency
119 receiving the credit, and the date the contribution was made. The tax credit
120 provided under this subsection shall be initially filed for the year in which the
121 verified contribution is made.

122 8. The cumulative amount of the tax credits redeemed shall not exceed the
123 unclaimed portion of the resident adoption category allocation as described in this
124 section. The director of revenue shall determine the unclaimed portion
125 available. The amount available shall be equally divided among the three
126 qualified agencies: CASA, child advocacy centers, or crisis care centers to be used

127 towards tax credits issued. In the event tax credits claimed under one agency do
128 not total the allocated amount for that agency, the unused portion for that agency
129 will be made available to the remaining agencies equally. In the event the total
130 amount of tax credits claimed for any one agency exceeds the amount available
131 for that agency, the amount redeemed shall and will be apportioned equally to all
132 eligible taxpayers claiming the credit under that agency. After all children in
133 crisis tax credits have been claimed, any remaining unclaimed portion of the
134 reserved allocation for adoptions of special needs children who are residents or
135 wards of residents of this state shall then be made available for [adoption tax
136 credit claims of special needs children who are not residents or wards of residents
137 of this state at the time the adoption is initiated] **tax credits for**
138 **contributions to eligible agencies provided under subsection 9 of this**
139 **section.**

140 **9. For all tax years beginning on or after January 1, 2009, a tax**
141 **credit may be claimed in an amount equal to up to fifty percent of a**
142 **verified contribution to an eligible agency and shall be named the**
143 **adoption resource center tax credit. The amount of any tax credit**
144 **issued shall not be less than fifty dollars nor more than ten thousand**
145 **dollars per taxpayer per year and shall be applied to taxes due under**
146 **chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo. A**
147 **contribution verification shall be issued to the taxpayer by the agency**
148 **receiving the contribution. Such contribution verification shall include**
149 **the taxpayer's name, Social Security number, amount of tax credit,**
150 **amount of contribution, the name and address of the agency receiving**
151 **the credit, and the date the contribution was made. The tax credit**
152 **provided under this subsection shall be initially filed for the year in**
153 **which the verified contribution is made. The cumulative amount of the**
154 **tax credits redeemed shall not exceed the unclaimed portion of the**
155 **resident adoption category allocation after all children in crisis tax**
156 **credits have been claimed. After all adoption resource center tax**
157 **credits have been claimed, any remaining unclaimed portion of the**
158 **reserved allocation for adoptions of special needs children who are**
159 **residents or wards of residents of this state shall then be made**
160 **available for adoption tax credit claims of special needs children who**
161 **are not residents or wards of residents of this state at the time the**
162 **adoption is initiated.**

163 **10.** Prior to December thirty-first of each year, the entities listed under
164 the [definition] **definitions** of qualified agency **and eligible agency** shall apply
165 to the department of social services in order to verify their qualified agency
166 status. Upon a determination that the agency is eligible to be **either** a qualified
167 agency **or an eligible agency**, the department of social services shall provide
168 a letter of eligibility to such agency. No later than February first of each year,
169 the department of social services shall provide a list of qualified agencies **and**
170 **eligible agencies** to the department of revenue. All tax credit applications to
171 claim the children in crisis tax credit **and adoption resource center tax**
172 **credits** shall be filed between July first and April fifteenth of each fiscal year.
173 A taxpayer shall apply for the children in crisis tax credit **or the adoption**
174 **resource center tax credit** by attaching a copy of the contribution verification
175 provided by a qualified agency to such taxpayer's income tax return.

176 **[10.] 11.** The tax credits provided under this section shall be subject to
177 the provisions of section 135.333.

178 **[11.] 12.** (1) In the event a credit denial, due to lack of available funds,
179 causes a balance-due notice to be generated by the department of revenue, or any
180 other redeeming agency, the taxpayer **[will] shall** not be held liable for any
181 penalty or interest, provided the balance is paid, or approved payment
182 arrangements have been made, within sixty days from the notice of denial.

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

186 **[12.] 13.** The director shall calculate the level of appropriation necessary
187 to issue all tax credits for nonresident special needs adoptions applied for under
188 this section and provide such calculation to the speaker of the house of
189 representatives, the president pro tempore of the senate, and the director of the
190 division of budget and planning in the office of administration by January
191 thirty-first of each year.

192 **[13.] 14.** The department may promulgate such rules or regulations as
193 are necessary to administer the provisions of this section. Any rule or portion of
194 a rule, as that term is defined in section 536.010, RSMo, that is created under the
195 authority delegated in this section shall become effective only if it complies with
196 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
197 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
198 and if any of the powers vested with the general assembly pursuant to chapter

199 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
200 rule are subsequently held unconstitutional, then the grant of rulemaking
201 authority and any rule proposed or adopted after August 28, 2006, shall be
202 invalid and void.

203 [14.] 15. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

204 (1) The provisions of the new program authorized under subsections 7 to
205 12 of this section shall automatically sunset six years after August 28, [2006]
206 2009, unless reauthorized by an act of the general assembly; and

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

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

✓