

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 693
95TH GENERAL ASSEMBLY

3098L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 37.710, 37.715, 210.565, and 210.566, RSMo, and to enact in lieu thereof eight new sections relating to foster care and adoption promotion.

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

Section A. Sections 37.710, 37.715, 210.565, and 210.566, RSMo, are repealed and eight
2 new sections enacted in lieu thereof, to be known as sections 37.710, 37.715, 143.1015, 210.565,
3 210.566, 210.617, 453.600, and 1, to read as follows:

37.710. 1. The office **of the child advocate** shall have access to the following
2 information:

3 (1) The names and physical location of all children in protective services, treatment, or
4 other programs under the jurisdiction of the children's division, the department of mental health,
5 and the juvenile court;

6 (2) All written reports of child abuse and neglect; and

7 (3) All current records required to be maintained pursuant to chapters 210 and 211,
8 RSMo.

9 2. The office shall have the authority:

10 (1) To communicate privately by any means possible with any child under protective
11 services and anyone working with the child, including the family, relatives, courts, employees
12 of the department of social services and the department of mental health, **child care providers,**
13 **health care providers, educational institutions,** and other persons or entities providing
14 treatment and services;

15 (2) To have access, including the right to inspect, copy and subpoena records held by the
16 clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions,
17 public or private, and other agencies, or persons with whom a particular child has been either

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.

18 voluntarily or otherwise placed for care, or has received treatment within this state or in another
19 state;

20 (3) To work in conjunction with juvenile officers and guardians ad litem. **Upon making**
21 **an appearance in any court on the case of a child in the protective custody of the state, the**
22 **office of the child advocate shall be joined by the court as a party to all proceedings and**
23 **shall prepare independent recommendations to the court after consultation with the**
24 **juvenile office and guardians ad litem and the court appointed special advocate if one has**
25 **been appointed;**

26 (4) To file amicus curiae briefs on behalf of the interests of the parent or child, **or to file**
27 **such pleadings necessary to intervene on behalf of the child at the appropriate judicial level**
28 **utilizing the resources of the office of the attorney general;**

29 (5) To [initiate] **convene** meetings with the department of social services, the department
30 of mental health, the juvenile court, and juvenile officers **and make recommendations to them**
31 **for necessary action;**

32 (6) To take whatever steps are appropriate to see that persons are made aware of the
33 services of the child advocate's office, its purpose, and how it can be contacted;

34 (7) To apply for and accept grants, gifts, and bequests of funds from other states, federal,
35 and interstate agencies, and independent authorities, private firms, individuals, and foundations
36 to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated
37 account established within the office to permit moneys to be expended in accordance with the
38 provisions of the grant or bequest; and

39 (8) Subject to appropriation, to establish as needed local panels on a regional or county
40 basis to adequately and efficiently carry out the functions and duties of the office, and address
41 complaints in a timely manner.

42 3. For any information obtained from a state agency or entity under sections 37.700 to
43 37.730, the office of child advocate shall be subject to the same disclosure restrictions and
44 confidentiality requirements that apply to the state agency or entity providing such information
45 to the office of child advocate. For information obtained directly by the office of child advocate
46 under sections 37.700 to 37.730, the office of child advocate shall be subject to the same
47 disclosure restrictions and confidentiality requirements that apply to the children's division
48 regarding information obtained during a child abuse and neglect investigation resulting in an
49 unsubstantiated report **with the exception that any findings and recommendations resulting**
50 **from such investigation may be released upon request with names and other such**
51 **identifying information redacted.**

37.715. 1. The office shall establish and implement procedures for receiving,
2 processing, responding to, and resolving complaints made by or on behalf of children who are

3 recipients of the services of the departments of social services and mental health, and the juvenile
4 court. Such procedures shall address complaints relating to the actions, inactions, or decisions
5 of providers or their representatives, public or private child welfare agencies, social service
6 agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such
7 recipient.

8 2. The office shall establish and implement procedures for the handling and[, whenever
9 possible,] the resolution of complaints.

10 3. The office shall have the authority to make the necessary inquiries and review relevant
11 information and records as the office deems necessary.

12 4. The office may recommend to any state or local agency changes in the rules adopted
13 or proposed by such state or local agency which adversely affect or may adversely affect the
14 health, safety, welfare, or civil or human rights of any recipient. The office shall make
15 recommendations on changes to any current policies and procedures. The office shall analyze
16 and monitor the development and implementation of federal, state and local laws, regulations
17 and policies with respect to services in the state and shall recommend to the department, courts,
18 general assembly, and governor changes in such laws, regulations and policies deemed by the
19 office to be appropriate.

20 **5. The office shall, at its discretion, seek to be joined as a party to the case of a child**
21 **or children in the state's custody, when the office feels that such action is necessary to**
22 **ensure the health, safety, welfare, or civil rights of the child. Such requests shall be**
23 **honored by the court with the jurisdiction in the case.**

24 6. The office shall inform recipients, their guardians or their families of their rights and
25 entitlements under state and federal laws and regulations through the distribution of educational
26 materials.

27 [6.] 7. The office shall annually submit to the governor, the general assembly, and the
28 Missouri supreme court a detailed report on the work of the office of the child advocate for
29 children's protection and services. Such report shall include, but not be limited to, the number
30 of complaints received by the office, the disposition of such complaints **including the number**
31 **of complaints in which the office needed to take legal action to protect children**, the number
32 of recipients involved in complaints, the state entities named in complaints and whether such
33 complaints were found to be substantiated, and any recommendations for improving the delivery
34 of services to reduce complaints or improving the function of the office of the child advocate for
35 children's protection and services.

143.1015. 1. In each taxable year beginning on or after January 1, 2010, each
2 **individual or corporation entitled to a tax refund in an amount sufficient to make a**
3 **designation under this section may designate that one dollar or any amount in excess of one**

4 dollar on a single return, and two dollars or any amount in excess of two dollars on a
5 combined return, of the refund due be credited to the foster care and adoptive parents
6 recruitment and retention fund as established under section 453.600, hereinafter referred
7 to as the fund. If any individual or corporation that is not entitled to a tax refund in an
8 amount sufficient to make a designation under this section wishes to make a contribution
9 to the fund, such individual or corporation may, by separate check, draft, or other
10 negotiable instrument, send in with the payment of taxes, or may send in separately, that
11 amount, clearly designated for the foster care and adoptive parents recruitment and
12 retention fund, the individual or corporation wishes to contribute. The department of
13 revenue shall deposit such amount to the fund as provided in subsections 2 and 3 of this
14 section. All moneys credited to the fund shall be considered nonstate funds under the
15 provisions of article IV, section 15 of the Missouri Constitution.

16 2. The director of revenue shall deposit at least monthly all contributions
17 designated by individuals under this section to the state treasurer for deposit to the fund.

18 3. The director of revenue shall deposit at least monthly all contributions
19 designated by corporations under this section, less an amount sufficient to cover the costs
20 of collection and handling by the department of revenue, to the state treasury for deposit
21 to the fund.

22 4. A contribution designated under this section shall only be deposited in the fund
23 after all other claims against the refund from which such contribution is to be made have
24 been satisfied.

25 5. Moneys deposited in the fund shall be distributed by the department of social
26 services in accordance with the provisions of this section and section 453.600.

27 6. Under section 23.253 of the Missouri sunset act:

28 (1) The provisions of the new program authorized under this section shall
29 automatically sunset six years after August 28, 2010, unless reauthorized by an act of the
30 general assembly; and

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

34 (3) This section shall terminate on December thirty-first of the calendar year
35 immediately following the calendar year in which the program authorized under this
36 section is sunset.

210.565. 1. Whenever a child is placed in a foster home and the court has determined
2 pursuant to subsection 3 of this section that foster home placement with relatives is not contrary
3 to the best interest of the child, the children's division shall give foster home placement to

4 relatives of the child **or other preferred persons**. Notwithstanding any rule of the division to
5 the contrary, the children's division shall make diligent efforts to locate the grandparents of the
6 child and determine whether they wish to be considered for placement of the child. Grandparents
7 who request consideration shall be given preference and first consideration for foster home
8 placement of the child. If more than one grandparent requests consideration, the family support
9 team shall make recommendations to the juvenile or family court about which grandparent
10 should be considered for placement.

11 2. As used in this section, the [term] **following terms shall mean:**

12 (1) **"Other preferred person", a godparent, trusted adult, foster parent with a**
13 **shared religious background, or foster parent who is currently licensed and capable of**
14 **accepting placement;**

15 (2) **"Relative" [means] , a grandparent or any other person related to another by blood**
16 **or affinity within the third degree. The status of a grandparent shall not be affected by the death**
17 **or the dissolution of the marriage of a son or daughter.**

18 3. **The following shall be the order or preference for placement of a child under this**
19 **section:**

20 (1) **Grandparents and relatives;**

21 (2) **A trusted adult that has a preexisting relationship with the child, such as a**
22 **godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the**
23 **child;**

24 (3) **Foster parents who share the same religious background as the child; and**

25 (4) **Any foster parent who is currently licensed and capable of accepting placement**
26 **of the child.**

27 4. The preference for placement and first consideration for grandparents or preference
28 for placement with other relatives **or preferred persons** created by this section shall only apply
29 where the court finds that placement with such grandparents or other relatives **or preferred**
30 **persons** is not contrary to the best interest of the child considering all circumstances. If the court
31 finds that it is contrary to the best interest of a child to be placed with grandparents or other
32 relatives **or preferred persons**, the court shall make specific findings on the record detailing the
33 reasons why the best interests of the child necessitate placement of the child with persons other
34 than grandparents or other relatives **or preferred persons**.

35 [4.] 5. The age of the child's grandparent or other relative **or preferred person** shall not
36 be the only factor that the children's division takes into consideration when it makes placement
37 decisions and recommendations to the court about placing the child with such grandparent or
38 other relative **or preferred person**.

39 [5.] 6. For any Native American child placed in protective custody, the children's
40 division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

41 [6.] 7. A grandparent or other relative **or preferred person** may, on a case-by-case basis,
42 have standards for licensure not related to safety waived for specific children in care that would
43 otherwise impede licensing of the grandparent's or relative's **or preferred person's** home. **In**
44 **addition, any person receiving a preference shall be licensed in an expedited manner if a**
45 **child is placed under such person's care.**

46 [7.] 8. The guardian ad litem shall ascertain the child's wishes and feelings about his or
47 her placement by conducting an interview or interviews with the child, if appropriate based on
48 the child's age and maturity level, which shall be considered as a factor in placement decisions
49 and recommendations, but shall not supersede the preference for relative placement **or preferred**
50 **person placement** created by this section or be contrary to the child's best interests.

210.566. 1. (1) The children's division and its contractors, recognizing that foster
2 parents are not clients but rather are colleagues in the child welfare team, shall treat foster
3 parents in a manner consistent with the National Association of Social Workers' ethical standards
4 of conduct as described in its Social Workers' Ethical Responsibilities to Colleagues. Foster
5 parents shall treat the children in their care, the child's birth family and members of the child
6 welfare team in a manner consistent with their ethical responsibilities as professional team
7 members.

8 (2) The children's division and its contractors shall provide written notification of the
9 rights enumerated in this section at the time of initial licensure and at the time of each licensure
10 renewal following the initial licensure period.

11 2. (1) The children's division and its contractors shall provide foster parents with
12 regularly scheduled opportunities for preservice training, and regularly scheduled opportunities
13 for pertinent inservice training, as determined by the Missouri State Foster Care and Adoption
14 Advisory Board.

15 (2) The children's division and its contractors shall provide to foster parents and potential
16 adoptive parents, prior to placement, all pertinent information, including but not limited to full
17 disclosure of all medical, psychological, and psychiatric conditions of the child, as well as
18 information from previous placements that would indicate that the child or children may have
19 a propensity to cause violence to any member of the foster family home. The foster parents shall
20 be provided with any information regarding the child or the child's family, including but not
21 limited to the case plan, any family history of mental or physical illness, sexual abuse of the child
22 or sexual abuse perpetrated by the child, criminal background of the child or the child's family,
23 fire-setting or other destructive behavior by the child, substance abuse by the child or child's
24 family, or any other information which is pertinent to the care and needs of the child and to

25 protect the foster or adoptive family. Knowingly providing false or misleading information to
26 foster parents in order to secure placement shall be denoted in the caseworker's personnel file and
27 shall be kept on record by the division.

28 (3) The children's division and its contractors shall arrange preplacement visits, except
29 in emergencies.

30 (4) The foster parents may ask questions about the child's case plan, encourage a
31 placement or refuse a placement without reprisal from the caseworker or agency. After a
32 placement, the children's division and its contractors shall update the foster parents as new
33 information about the child is gathered.

34 (5) Foster parents shall be informed in a timely manner by the children's division and its
35 contractors of all team meetings and staffings concerning their licensure status or children placed
36 in their homes, and shall be allowed to participate, consistent with section 210.761.

37 (6) The children's division and its contractors shall establish reasonably accessible
38 respite care for children in foster care for short periods of time, jointly determined by foster
39 parents and the child's caseworker pursuant to section 210.545. Foster parents shall follow all
40 procedures established by the children's division and its contractors for requesting and using
41 respite care.

42 (7) Foster parents shall treat all information received from the children's division and its
43 contractors about the child and the child's family as confidential. Information necessary for the
44 medical or psychiatric care of the child may be provided to the appropriate practitioners. Foster
45 parents may share information necessary with school personnel in order to secure a safe and
46 appropriate education for the child. Additionally, foster parents shall share information they may
47 learn about the child and the child's family, and concerns that arise in the care of the child, with
48 the caseworker and other members of the child welfare team. Recognizing that placement
49 changes are difficult for children, foster parents shall seek all necessary information, and
50 participate in preplacement visits whenever possible, before deciding whether to accept a child
51 for placement.

52 3. (1) Foster parents shall make decisions about the daily living concerns of the child,
53 and shall be permitted to continue the practice of their own family values and routines while
54 respecting the child's cultural heritage. All discipline shall be consistent with state laws and
55 regulations. The children's division shall allow foster parents to help plan visitation between the
56 child and the child's siblings or biological family. Visitations should be scheduled at a time that
57 meets the needs of the child, the biological family members, and the foster family whenever
58 possible. Recognizing that visitation with family members is an important right of children in
59 foster care, foster parents shall be flexible and cooperative with regard to family visits.

60 (2) Foster parents shall provide care that is respectful of the child's cultural identity and
61 needs. Recognizing that cultural competence can be learned, the children's division and their
62 contractors shall provide foster parents with training that specifically addresses cultural needs
63 of children, including but not limited to, information on skin and hair care, information on any
64 specific religious or cultural practices of the child's biological family, and referrals to community
65 resources for ongoing education and support.

66 (3) Foster parents shall recognize that the purpose of discipline is to teach and direct the
67 behavior of the child, and ensure that it is administered in a humane and sensitive manner.
68 Foster parents shall use discipline methods which are consistent with children's division policy.

69 4. (1) Consistent with state laws and regulations, the children's division and its
70 contractors shall provide, upon request by the foster parents, information about a child's progress
71 after the child leaves foster care.

72 (2) Except in emergencies, foster parents shall be given two weeks advance notice and
73 a written statement of the reasons before a child is removed from their care. When requesting
74 removal of a child from their home, foster parents shall give two weeks advance notice,
75 consistent with division policy, to the child's caseworker, except in emergency situations.

76 (3) Recognizing the critical nature of attachment for children, if a child reenters the
77 foster care system and is not placed in a relative home, the child's former foster parents shall be
78 given first consideration for placement of the child.

79 (4) **Recognizing the critical nature of sibling bonds for children, the children's**
80 **division shall make reasonable efforts to place siblings in the same foster care, kinship,**
81 **guardianship, or adoptive placement, unless doing so would be contrary to the safety or**
82 **well-being of any of the siblings. If siblings are not placed together, the children's division**
83 **shall make reasonable efforts to provide frequent visitation or other ongoing interaction**
84 **between the siblings, unless this interaction would be contrary to a sibling's safety or well-**
85 **being.**

86 (5) If a child becomes free for adoption while in foster care, the child's foster family shall
87 be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

88 [(5)] (6) If a foster child becomes free for adoption and the foster parents desire to adopt
89 the child, they shall inform the caseworker within sixty days of the caseworker's initial query.
90 If they do not choose to pursue adoption, foster parents shall make every effort to support and
91 encourage the child's placement in a permanent home, including but not limited to providing
92 information on the history and care needs of the child and accommodating transitional visitation.

93 5. Foster parents shall be informed by the court no later than two weeks prior to all court
94 hearings pertaining to a child in their care, and informed of their right to attend and participate,
95 consistent with section 211.464, RSMo.

96 6. The children's division and their contractors shall provide access to a fair and impartial
97 grievance process to address licensure, case management decisions, and delivery of service
98 issues. Foster parents shall have timely access to the child placement agency's appeals process,
99 and shall be free from acts of retaliation when exercising the right to appeal.

100 7. The children's division and their contractors shall provide training to foster parents
101 on the policies and procedures governing the licensure of foster homes, the provision of foster
102 care, and the adoption process. Foster parents shall, upon request, be provided with written
103 documentation of the policies of the children's division and their contractors. Per licensure
104 requirements, foster parents shall comply with the policies of the child placement agency.

105 8. For purposes of this section, "foster parent" means a resource family providing care
106 of children in state custody.

**210.617. 1. There is hereby created within the department of social services the
2 "Missouri State Foster Care and Adoption Board", which shall provide consultation and
3 assistance to the department and shall draft and provide an independent review of the
4 children's division policies and procedures related to the provision of foster care and
5 adoption in Missouri. Additionally, the board shall determine the nature and content of
6 in-service training which shall be provided to foster and adoptive parents in order to
7 improve the provision of foster care and adoption services to children statewide consistent
8 with section 210.566. The board shall be comprised of foster and adoptive parents as
9 follows:**

10 (1) Two members from each of the seven children's division areas within the
11 department of social services delineated as follows:

- 12 (a) The northwest region;
- 13 (b) The northeast region;
- 14 (c) The southeast region;
- 15 (d) The southwest region;
- 16 (e) The Kansas City region;
- 17 (f) The St. Louis area region;
- 18 (g) The St. Louis City region;

19 (2) Area members shall be appointed by the governor, with the advice and consent
20 of the senate, based upon recommendations by regional foster care and adoption boards,
21 or other similar entities.

22 2. Statewide foster care and adoption association representatives shall be voting
23 members of the board as approved by the board.

24 3. All members of the board shall serve for a term of at least two years. Members
25 may be re-appointed to the board by their entities for consecutive terms. All vacancies on

26 the board shall be filled for the balance of the unexpired term in the same manner in which
27 the board membership which is vacant was originally filled.

28 4. Each member of the board may be reimbursed for actual and necessary expenses
29 incurred by the member in performance of his or her official duties. All reimbursements
30 made under this subsection shall be made from funds within the department of social
31 services' children's division budget.

32 5. All business transactions of the board shall be conducted in public meetings in
33 accordance with sections 610.010 to 610.030.

34 6. The board shall elect officers from the membership consisting of a chairperson,
35 co-chairperson, and secretary. Officers shall serve for a term of two years. The board may
36 elect such other officers and establish such committees as it deems appropriate.

37 7. The board shall establish such procedures necessary to:

38 (1) Review children's division proposed policy and provide written responses to the
39 children's division indicating approval or notifying the children's division of the board's
40 disapproval and provide recommendations for change within thirty days of receipt of the
41 proposed policy;

42 (2) Provide draft policy suggestions, at the request of the children's division or in
43 response to issues by the board, to the children's division for improvements in foster care
44 or adoption practice; and

45 (3) Fulfill its statutory requirement in accordance with section 210.566 to determine
46 the content of in-service training to be provided by the children's division to foster and
47 adoptive parents.

48 8. The board shall provide to the director of the department of social services, the
49 governor, the office of the child advocate, and upon request, members of the general
50 assembly, a written report of annual activities conducted and made.

51 9. The board shall exercise its powers and duties independently of the children's
52 division within the department of social services in order to ensure partnership and
53 accountability in the provision of services to the state's children affected by abuse and
54 neglect. Budgetary, procurement, and accounting functions shall continue to be performed
55 by the children's division.

453.600. 1. There is hereby created in the state treasury the "Foster Care and
2 Adoptive Parents Recruitment and Retention Fund" which shall consist of all gifts,
3 donations, transfers, and moneys appropriated by the general assembly, and bequests to
4 the fund. The fund shall be administered by the department of social services.

5 2. The state treasurer shall be custodian of the fund and may approve
6 disbursements from the fund in accordance with sections 30.170 and 30.180.

7 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining
8 in the fund at the end of the biennium shall not revert to the credit of the general revenue
9 fund. The state treasurer shall invest moneys in the fund in the same manner as other
10 funds are invested. Any interest and moneys earned on such investments shall be credited
11 to the fund.

12 3. Upon appropriation, moneys in the fund shall be used for the department, either
13 in-house or through private partnerships, to promote foster care and adoption recruitment
14 programs. Such programs shall include, but not be limited to, the following:

- 15 (1) Promotional printings, advertisements, flyers, posters, billboards, and radio
16 spots;
- 17 (2) Community and church presentations;
- 18 (3) Exhibits at community events;
- 19 (4) Public service announcements;
- 20 (5) Informational meetings open to the public;
- 21 (6) Child specific recruitment;
- 22 (7) A toll-free informational phone number;
- 23 (8) Foster parent newsletters; and
- 24 (9) Photo displays of children awaiting permanency from foster care.

25 4. Under section 23.253 of the Missouri sunset act:

26 (1) The provisions of the new fund authorized under this section shall automatically
27 sunset six years after August 28, 2010, unless reauthorized by an act of the general
28 assembly; and

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

32 (3) This section shall terminate on December thirty-first of the calendar year
33 immediately following the calendar year in which the fund authorized under this section
34 is sunset.

Section 1. The child advocate, the children's division or department of social
2 services, juvenile authorities, and family courts shall not discriminate against the
3 educational choices of a foster parent or parents so long as the foster child's education is
4 in compliance with section 167.031. The foster parent, custodial parent, guardian, or any
5 person who is parenting the child for the term of the child's placement shall have sole
6 discretion on how the child is educated, whether it is in public school, home school, private
7 school, or parochial school, so long as the child's education is in compliance with section
8 167.031.