

SECOND REGULAR SESSION

# HOUSE BILL NO. 2239

## 95TH GENERAL ASSEMBLY

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

4563L.03I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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

Section A. Sections 210.135 and 210.145, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.135 and 210.145, to read as follows:

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

**2. In a case in which a child dies or is seriously injured after a report is made under sections 210.109 to 210.165, the hotline worker or workers taking any reports related to such case and division case worker or workers assigned to the investigation of such report**

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

4 **shall receive a preliminary evaluation by the division to determine if an assessment to**  
5 **establish whether the worker is able to competently perform his or her duties of each**  
6 **worker is required. If required, the assessment shall be completed within three days of the**  
7 **child's death.**

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

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

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

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

31 4. **When three or more calls to the child abuse and neglect hotline are made by one**  
32 **or more than one individual on the same child within a seventy-two-hour period shall**

33 **result in a review by the division to determine if the calls meet the criteria and statutory**  
34 **definition for a child abuse and neglect report to be accepted. The division review shall**  
35 **include contacting the hotline caller or callers to collect information to determine if the**  
36 **calls meet the criteria for harassment.**

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

44 **[5.] 6.** The local office of the division shall cause an investigation or family assessment  
45 and services approach to be initiated in accordance with the protocols established in subsection  
46 2 of this section, except in cases where the sole basis for the report is educational neglect. If the  
47 report indicates that educational neglect is the only complaint and there is no suspicion of other  
48 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the  
49 report. If the report indicates the child is in danger of serious physical harm or threat to life, an  
50 investigation shall include direct observation of the subject child within twenty-four hours of the  
51 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct  
52 observation. **Callers to the child abuse and neglect hotline shall be instructed by the**  
53 **division's hotline to call 911 in instances where the child may be in immediate danger.** If  
54 the parents of the child are not the alleged abusers, a parent of the child must be notified prior  
55 to the child being interviewed by the division. **No person responding to a child abuse and**  
56 **neglect investigation shall leave any documentation of any attempted visit, such as business**  
57 **cards, pamphlets, or other similar identifying information if no person is present at the**  
58 **time of the home visit. If the alleged perpetrator is present during a visit by the person**  
59 **responding to or investigating the report, such person shall provide written material to the**  
60 **alleged perpetrator informing him or her of his or her rights regarding such visit,**  
61 **including but not limited to the right to contact an attorney. The alleged perpetrator shall**  
62 **be given reasonable amount of time to read such written material or have such material**  
63 **read to him or her by the case worker before the visit commences, but in no event shall**  
64 **such time exceed five minutes; except that, such requirement to provide written material**  
65 **and reasonable time to read such material shall not apply in cases where the child faces an**  
66 **immediate threat or danger, or the person responding to or investigating the report is or**  
67 **feels threatened or in danger of physical harm.** If the abuse is alleged to have occurred in a  
68 school or child-care facility the division shall not meet with the child in any school building or

69 child-care facility building where abuse of such child is alleged to have occurred. When the  
70 child is reported absent from the residence, the location and the well-being of the child shall be  
71 verified. For purposes of this subsection, child-care facility shall have the same meaning as such  
72 term is defined in section 210.201.

73 [6.] 7. The director of the division shall name at least one chief investigator for each  
74 local division office, who shall direct the division response on any case involving a second or  
75 subsequent incident regarding the same subject child or perpetrator. The duties of a chief  
76 investigator shall include verification of direct observation of the subject child by the division  
77 and shall ensure information regarding the status of an investigation is provided to the public  
78 school district liaison. The public school district liaison shall develop protocol in conjunction  
79 with the chief investigator to ensure information regarding an investigation is shared with  
80 appropriate school personnel. The superintendent of each school district shall designate a  
81 specific person or persons to act as the public school district liaison. Should the subject child  
82 attend a nonpublic school the chief investigator shall notify the school principal of the  
83 investigation. Upon notification of an investigation, all information received by the public  
84 school district liaison or the school shall be subject to the provisions of the federal Family  
85 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34  
86 C.F.R., Part 99.

87 [7.] 8. The investigation shall include but not be limited to the nature, extent, and cause  
88 of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect;  
89 the names and conditions of other children in the home, if any; the home environment and the  
90 relationship of the subject child to the parents or other persons responsible for the child's care;  
91 any indication of incidents of physical violence against any other household or family member;  
92 and other pertinent data.

93 [8.] 9. When a report has been made by a person required to report under section  
94 210.115, the division shall contact the person who made such report within forty-eight hours of  
95 the receipt of the report in order to ensure that full information has been received and to obtain  
96 any additional information or medical records, or both, that may be pertinent.

97 [9.] 10. Upon completion of the investigation, if the division suspects that the report was  
98 made maliciously or for the purpose of harassment, the division shall refer the report and any  
99 evidence of malice or harassment to the local prosecuting or circuit attorney.

100 [10.] 11. Multidisciplinary teams shall be used whenever conducting the investigation  
101 as determined by the division in conjunction with local law enforcement. Multidisciplinary  
102 teams shall be used in providing protective or preventive social services, including the services  
103 of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court,  
104 and other agencies, both public and private.

105           [11.] **12.** For all family support team meetings involving an alleged victim of child abuse  
106 or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or  
107 custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the  
108 child shall be provided notice and be permitted to attend all such meetings. Family members,  
109 other than alleged perpetrators, or other community informal or formal service providers that  
110 provide significant support to the child and other individuals may also be invited at the discretion  
111 of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal  
112 guardian or custodian and the foster parents may request that other individuals, other than alleged  
113 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or  
114 attends such team meetings, the division or the convenor of the meeting shall provide such  
115 persons with notice of all such subsequent meetings involving the child. Families may determine  
116 whether individuals invited at their discretion shall continue to be invited.

117           [12.] **13.** If the appropriate local division personnel determine after an investigation has  
118 begun that completing an investigation is not appropriate, the division shall conduct a family  
119 assessment and services approach. The division shall provide written notification to local law  
120 enforcement prior to terminating any investigative process. The reason for the termination of  
121 the investigative process shall be documented in the record of the division and the written  
122 notification submitted to local law enforcement. Such notification shall not preclude nor prevent  
123 any investigation by law enforcement.

124           [13.] **14.** If the appropriate local division personnel determines to use a family  
125 assessment and services approach, the division shall:

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

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

136           (3) Commence an immediate investigation if at any time during the family assessment  
137 and services approach the division determines that an investigation, as delineated in sections  
138 210.109 to 210.183, is required. The division staff who have conducted the assessment may  
139 remain involved in the provision of services to the child and family;

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

[14.] **15.** Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If a child involved in a pending investigation dies, the investigation shall remain open until the division's investigation surrounding the death is completed. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

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

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

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

(2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has

176 been made. If a report has been made, the court may stay the custody proceeding until the  
177 children's division completes its investigation.

178 [17.] **18.** In any judicial proceeding involving the custody of a child where the court  
179 determines that the child is in need of services [pursuant to subdivision (d)] **under paragraph**  
180 **(d) of subdivision (1)** of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the  
181 child's parent, guardian or custodian shall not be entered into the registry.

182 [18.] **19.** The children's division is hereby granted the authority to promulgate rules and  
183 regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to  
184 carry out the provisions of sections 210.109 to 210.183.

185 [19.] **20.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
186 that is created under the authority delegated in this section shall become effective only if it  
187 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
188 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of  
189 the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay  
190 the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then  
191 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall  
192 be invalid and void.

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