

SECOND REGULAR SESSION

# HOUSE BILL NO. 1610

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANKLIN.

5305H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 210.152, RSMo, and to enact in lieu thereof one new section relating to child abuse reports.

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

Section A. Section 210.152, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.152, to read as follows:

210.152. 1. All ~~identifying~~ information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division ~~and~~ **or** removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, ~~identifying~~ **the report and all** information shall be retained by the division;

(2) (a) For investigation reports initiated against a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment, or in retaliation for the filing of a report by a person required to report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(b) For investigation reports, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment, or in retaliation for the filing of a report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

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.

17 (c) For investigation reports initiated by a person required to report under section  
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying  
19 information shall be retained for ~~[five]~~ **ten** years from the conclusion of the investigation. For  
20 all other investigation reports where insufficient evidence of abuse or neglect is found by the  
21 division, identifying information shall be retained for ~~[two]~~ **five** years from the conclusion of the  
22 investigation. Such reports shall include any exculpatory evidence known by the division,  
23 including exculpatory evidence obtained after the closing of the case. At the end of such time  
24 period, the identifying information shall be removed from the records of the division and  
25 destroyed;

26 (d) For investigation reports where the identification of the specific perpetrator or  
27 perpetrators cannot be substantiated and the division has specific evidence to determine that a  
28 child was abused or neglected, the division shall retain the report and all ~~[identifying]~~  
29 information but shall not place an unknown perpetrator on the central registry. The division shall  
30 retain all ~~[identifying]~~ information ~~[for the purpose of utilizing such information in subsequent~~  
31 ~~investigations or family assessments of the same child, the child's family, or members of the~~  
32 ~~child's household]~~. The division shall retain and disclose information and findings in the same  
33 manner as the division retains and discloses family assessments. If the division made a finding  
34 of abuse or neglect against an unknown perpetrator prior to August 28, 2017, the division shall  
35 remove the unknown perpetrator from the central registry but shall retain and utilize all  
36 ~~[identifying]~~ information as otherwise provided in this section;

37 (3) For reports where the division uses the family assessment and services approach,  
38 ~~[identifying]~~ information shall be retained by the division;

39 (4) For reports in which the division is unable to locate the child alleged to have been  
40 abused or neglected, ~~[identifying]~~ information shall be retained for ~~[ten]~~ **eighteen** years from the  
41 date of the report and then shall be removed from the records ~~[of]~~ **by** the division.

42 2. Within ninety days, or within one hundred twenty days in cases involving sexual  
43 abuse, or until the division's investigation is complete in cases involving a child fatality or  
44 near-fatality, after receipt of a report of abuse or neglect that is investigated, the alleged  
45 perpetrator named in the report and the parents of the child named in the report, if the alleged  
46 perpetrator is not a parent, shall be notified in writing of any determination made by the division  
47 based on the investigation. The notice shall advise either:

48 (1) That the division has determined by a probable cause finding prior to August 28,  
49 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists  
50 and that the division shall retain all ~~[identifying]~~ information regarding the abuse or neglect; that  
51 such information shall remain confidential and will not be released except to law enforcement  
52 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged

53 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's  
54 determination through a review by the child abuse and neglect review board as provided in  
55 subsection 4 of this section;

56 (2) That the division has not made a probable cause finding or determined by a  
57 preponderance of the evidence that abuse or neglect exists; or

58 (3) The division has been unable to determine the identity of the perpetrator of the abuse  
59 or neglect. The notice shall also inform the child's parents and legal guardian that the division  
60 shall retain, utilize, and disclose all information and findings as provided in family assessment  
61 and services cases.

62 3. The children's division may reopen a case for review if new, specific, and credible  
63 evidence is obtained.

64 4. Any person named in an investigation as a perpetrator who is aggrieved by a  
65 determination of abuse or neglect by the division as provided in this section may seek an  
66 administrative review by the child abuse and neglect review board pursuant to the provisions of  
67 section 210.153. Such request for review shall be made within sixty days of notification of the  
68 division's decision under this section. In those cases where criminal charges arising out of facts  
69 of the investigation are pending, the request for review shall be made within sixty days from the  
70 court's final disposition or dismissal of the charges.

71 5. In any such action for administrative review, the child abuse and neglect review board  
72 shall sustain the division's determination if such determination was supported by evidence of  
73 probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after  
74 August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect  
75 review board hearing shall be closed to all persons except the parties, their attorneys and those  
76 persons providing testimony on behalf of the parties.

77 6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect  
78 review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the  
79 county in which the alleged perpetrator resides and in circuits with split venue, in the venue in  
80 which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a  
81 resident of the state, proper venue shall be in Cole County. The case may be assigned to the  
82 family court division where such a division has been established. The request for a judicial  
83 review shall be made within sixty days of notification of the decision of the child abuse and  
84 neglect review board decision. In reviewing such decisions, the circuit court shall provide the  
85 alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may  
86 subpoena any witnesses except the alleged victim or the reporter. However, the circuit court  
87 shall have the discretion to allow the parties to submit the case upon a stipulated record.

88           7. In any such action for administrative review, the child abuse and neglect review board  
89 shall notify the child or the parent, guardian or legal representative of the child that a review has  
90 been requested.

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