

SECOND REGULAR SESSION

HOUSE BILL NO. 1862

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

5532H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.145 and 210.150, RSMo, and to enact in lieu thereof two new sections relating to child abuse reports.

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

Section A. Sections 210.145 and 210.150, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.145 and 210.150, to read as follows:

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

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

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

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 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 if the victim is a child less than eighteen
20 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,
21 or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the
22 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than
23 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 573.200, or
24 573.205, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such
25 crimes. The division shall immediately communicate all reports that merit investigation to its
26 appropriate local office and any relevant information as may be contained in the information
27 system. The local division staff shall determine, through the use of protocols developed by the
28 division, whether an investigation or the family assessment and services approach should be used
29 to respond to the allegation. The protocols developed by the division shall give priority to
30 ensuring the well-being and safety of the child.

31 4. **The division may accept a report for investigation or family assessment if either**
32 **the child or alleged perpetrator resides in the state, may be found in the state, or if the**
33 **incident occurred in the state. The division may accept a report if the child has recently**
34 **resided in the state but he or she is currently located in another state and the reported**
35 **incident occurred outside of the state. The division shall immediately communicate all**
36 **reports that merit investigation to the appropriate agencies in such state where the child**
37 **is believed to be located along with any relevant information as may be contained in the**
38 **division's information system.**

39 5. When the child abuse and neglect hotline receives three or more calls, within a
40 seventy-two hour period, from one or more individuals concerning the same child, the division
41 shall conduct a review to determine whether the calls meet the criteria and statutory definition
42 for a child abuse and neglect report to be accepted. In conducting the review, the division shall
43 contact the hotline caller or callers in order to collect information to determine whether the calls
44 meet the criteria for harassment.

45 [5-] 6. The local office shall contact the appropriate law enforcement agency immediately
46 upon receipt of a report which division personnel determine merits an investigation and provide
47 such agency with a detailed description of the report received. In such cases the local division
48 office shall request the assistance of the local law enforcement agency in all aspects of the
49 investigation of the complaint. The appropriate law enforcement agency shall either assist the
50 division in the investigation or provide the division, within twenty-four hours, an explanation
51 in writing detailing the reasons why it is unable to assist.

52 ~~[6.]~~ 7. The local office of the division shall cause an investigation or family assessment
53 and services approach to be initiated in accordance with the protocols established in subsection
54 2 of this section, except in cases where the sole basis for the report is educational neglect. If the
55 report indicates that educational neglect is the only complaint and there is no suspicion of other
56 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
57 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
58 investigation shall include direct observation of the subject child within twenty-four hours of the
59 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
60 observation. Callers to the child abuse and neglect hotline shall be instructed by the division's
61 hotline to call 911 in instances where the child may be in immediate danger. If the parents of the
62 child are not the alleged perpetrators, a parent of the child must be notified prior to the child
63 being interviewed by the division. No person responding to or investigating a child abuse and
64 neglect report shall call prior to a home visit or leave any documentation of any attempted visit,
65 such as business cards, pamphlets, or other similar identifying information if he or she has a
66 reasonable basis to believe the following factors are present:

- 67 (1) (a) No person is present in the home at the time of the home visit; and
68 (b) The alleged perpetrator resides in the home or the physical safety of the child may
69 be compromised if the alleged perpetrator becomes aware of the attempted visit;
70 (2) The alleged perpetrator will be alerted regarding the attempted visit; or
71 (3) The family has a history of domestic violence or fleeing the community.

72
73 If the alleged perpetrator is present during a visit by the person responding to or investigating the
74 report, such person shall provide written material to the alleged perpetrator informing him or her
75 of his or her rights regarding such visit, including but not limited to the right to contact an
76 attorney. The alleged perpetrator shall be given a reasonable amount of time to read such written
77 material or have such material read to him or her by the case worker before the visit commences,
78 but in no event shall such time exceed five minutes; except that, such requirement to provide
79 written material and reasonable time to read such material shall not apply in cases where the
80 child faces an immediate threat or danger, or the person responding to ~~or~~ investigating the report
81 is or feels threatened or in danger of physical harm. If the abuse is alleged to have occurred in
82 a school or child care facility the division shall not meet with the child in any school building
83 or child-care facility building where abuse of such child is alleged to have occurred. When the
84 child is reported absent from the residence, the location and the well-being of the child shall be
85 verified. For purposes of this subsection, "child care facility" shall have the same meaning as
86 such term is defined in section 210.201.

87 ~~[7-]~~ **8.** The director of the division shall name at least one chief investigator for each
88 local division office, who shall direct the division response on any case involving a second or
89 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
90 investigator shall include verification of direct observation of the subject child by the division
91 and shall ensure information regarding the status of an investigation is provided to the public
92 school district liaison. The public school district liaison shall develop protocol in conjunction
93 with the chief investigator to ensure information regarding an investigation is shared with
94 appropriate school personnel. The superintendent of each school district shall designate a
95 specific person or persons to act as the public school district liaison. Should the subject child
96 attend a nonpublic school the chief investigator shall notify the school principal of the
97 investigation. Upon notification of an investigation, all information received by the public
98 school district liaison or the school shall be subject to the provisions of the federal Family
99 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
100 C.F.R., Part 99.

101 ~~[8-]~~ **9.** The investigation shall include but not be limited to the nature, extent, and cause
102 of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect;
103 the names and conditions of other children in the home, if any; the home environment and the
104 relationship of the subject child to the parents or other persons responsible for the child's care;
105 any indication of incidents of physical violence against any other household or family member;
106 and other pertinent data.

107 ~~[9-]~~ **10.** When a report has been made by a person required to report under section
108 210.115, the division shall contact the person who made such report within forty-eight hours of
109 the receipt of the report in order to ensure that full information has been received and to obtain
110 any additional information or medical records, or both, that may be pertinent.

111 ~~[10-]~~ **11.** Upon completion of the investigation, if the division suspects that the report
112 was made maliciously or for the purpose of harassment, the division shall refer the report and
113 any evidence of malice or harassment to the local prosecuting or circuit attorney.

114 ~~[11-]~~ **12.** Multidisciplinary teams shall be used whenever conducting the investigation
115 as determined by the division in conjunction with local law enforcement. Multidisciplinary
116 teams shall be used in providing protective or preventive social services, including the services
117 of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court,
118 and other agencies, both public and private.

119 ~~[12-]~~ **13.** For all family support team meetings involving an alleged victim of child abuse
120 or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or
121 custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the
122 child shall be provided notice and be permitted to attend all such meetings. Family members,

other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

~~[13-]~~ **14.** If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

~~[14-]~~ **15.** If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

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

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

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may 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.

~~[15-]~~ **16.** (1) Within forty-five 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 forty-five days, unless good cause for the failure to complete the investigation is specifically documented in the information system. Good cause for failure to complete an investigation shall include, but not be limited to:

(a) The necessity to obtain relevant reports of medical providers, medical examiners, psychological testing, law enforcement agencies, forensic testing, and analysis of relevant evidence by third parties which has not been completed and provided to the division;

(b) The attorney general or the prosecuting or circuit attorney of the city or county in which a criminal investigation is pending certifies in writing to the division that there is a pending criminal investigation of the incident under investigation by the division and the issuing of a decision by the division will adversely impact the progress of the investigation; or

(c) The child victim, the subject of the investigation or another witness with information relevant to the investigation is unable or temporarily unwilling to provide complete information within the specified time frames due to illness, injury, unavailability, mental capacity, age, developmental disability, or other cause.

The division shall document any such reasons for failure to complete the investigation.

(2) If a child fatality or near-fatality is involved in a report of abuse or neglect, the investigation shall remain open until the division's investigation surrounding such death or near-fatal injury is completed.

(3) If the investigation is not completed within forty-five days, the information system shall be updated at regular intervals and upon the completion of the investigation, which shall be completed no later than ninety days after receipt of a report of abuse or neglect, or one hundred twenty days after receipt of a report of abuse or neglect involving sexual abuse, or until the division's investigation is complete in cases involving a child fatality or near-fatality. 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.

~~[16.]~~ 17. 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. 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.

~~[17.]~~ **18.** The division shall provide to any individual who is not satisfied with the results of an investigation information about the office of child advocate and the services it may provide under sections 37.700 to 37.730.

~~[18.]~~ **19.** 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 been made.

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

~~[19.]~~ **20. Nothing in this chapter shall be construed to prohibit the children's division from coinvestigating a report of child abuse or neglect or sharing records and information with child welfare, law enforcement, or judicial officers of another state, territory, or nation if the children's division determines it is appropriate to do so under the standard set forth in subsection 4 of section 210.150 and if such receiving agency is exercising its authority under the law.**

21. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services under paragraph (d) of subdivision (1) of subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

~~[20.]~~ **22.** The children's division is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the provisions of sections 210.109 to 210.183.

230 ~~[24.]~~ 23. Any rule or portion of a rule, as that term is defined in section 536.010, that is
231 created under the authority delegated in this section shall become effective only if it complies
232 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
233 This section and chapter 536 are nonseverable and if any of the powers vested with the general
234 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
235 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
236 any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.150. 1. The children's division shall ensure the confidentiality of all reports and
2 records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local
3 offices, the central registry, and other appropriate persons, officials, and institutions pursuant to
4 sections 210.109 to 210.183. To protect the rights of the family and the child named in the report
5 as a victim, the children's division shall establish guidelines which will ensure that any disclosure
6 of information concerning the abuse and neglect involving that child is made only to persons or
7 agencies that have a right to such information. The division may require persons to make written
8 requests for access to records maintained by the division. The division shall only release
9 information to persons who have a right to such information. The division shall notify persons
10 receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section
11 of the purpose for which the information is released and of the penalties for unauthorized
12 dissemination of information. Such information shall be used only for the purpose for which the
13 information is released.

14 2. Only the following persons shall have access to investigation records contained in the
15 central registry:

16 (1) Appropriate federal, state or local criminal justice agency personnel, or any agent of
17 such entity, with a need for such information under the law to protect children from abuse or
18 neglect;

19 (2) A physician or a designated agent who reasonably believes that the child being
20 examined may be abused or neglected;

21 (3) Appropriate staff of the division and of its local offices, including interdisciplinary
22 teams which are formed to assist the division in investigation, evaluation and treatment of child
23 abuse and neglect cases or a multidisciplinary provider of professional treatment services for a
24 child referred to the provider;

25 (4) Any child named in the report as a victim, or a legal representative, or the parent, if
26 not the alleged perpetrator, or guardian of such person when such person is a minor, or is
27 mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to
28 persons in this category. Prior to the release of any identifying information, the division shall
29 determine if the release of such identifying information may place a person's life or safety in

30 danger. If the division makes the determination that a person's life or safety may be in danger,
31 the identifying information shall not be released. The division shall provide a method for
32 confirming or certifying that a designee is acting on behalf of a subject;

33 (5) Any alleged perpetrator named in the report, but the names of reporters shall not be
34 furnished to persons in this category. Prior to the release of any identifying information, the
35 division shall determine if the release of such identifying information may place a person's life
36 or safety in danger. If the division makes the determination that a person's life or safety may be
37 in danger, the identifying information shall not be released. However, the investigation reports
38 will not be released to any alleged perpetrator with pending criminal charges arising out of the
39 facts and circumstances named in the investigation records until an indictment is returned or an
40 information filed;

41 (6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved
42 in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or
43 neglect or child protective proceedings or child custody proceedings, and other federal, state and
44 local government entities, or any agent of such entity, with a need for such information in order
45 to carry out its responsibilities under the law to protect children from abuse or neglect;

46 (7) Any person engaged in a bona fide research purpose, with the permission of the
47 director; provided, however, that no information identifying the child named in the report as a
48 victim or the reporters shall be made available to the researcher, unless the identifying
49 information is essential to the research or evaluation and the child named in the report as a victim
50 or, if the child is less than eighteen years of age, through the child's parent, or guardian provides
51 written permission;

52 (8) Any child-care facility; child-placing agency; residential-care facility, including
53 group homes; juvenile courts; public or private elementary schools; public or private secondary
54 schools; or any other public or private agency exercising temporary supervision over a child or
55 providing or having care or custody of a child who may request an examination of the central
56 registry from the division for all employees and volunteers or prospective employees and
57 volunteers, who do or will provide services or care to children. Any agency or business
58 recognized by the division or business which provides training and places or recommends people
59 for employment or for volunteers in positions where they will provide services or care to children
60 may request the division to provide an examination of the central registry. Such agency or
61 business shall provide verification of its status as a recognized agency. Requests for
62 examinations shall be made to the division director or the director's designee in writing by the
63 chief administrative officer of the above homes, centers, public and private elementary schools,
64 public and private secondary schools, agencies, or courts. The division shall respond in writing
65 to that officer. The response shall include information pertaining to the nature and disposition

66 of any report or reports of abuse or neglect revealed by the examination of the central registry.
67 This response shall not include any identifying information regarding any person other than the
68 alleged perpetrator of the abuse or neglect;

69 (9) Any parent or legal guardian who inquires about a child abuse or neglect report
70 involving a specific person or child-care facility who does or may provide services or care to a
71 child of the person requesting the information. Request for examinations shall be made to the
72 division director or the director's designee, in writing, by the parent or legal guardian of the child
73 and shall be accompanied with a signed and notarized release form from the person who does
74 or may provide care or services to the child. The notarized release form shall include the full
75 name, date of birth and Social Security number of the person who does or may provide care or
76 services to a child. The response shall include information pertaining to the nature and
77 disposition of any report or reports of abuse or neglect revealed by the examination of the central
78 registry. This response shall not include any identifying information regarding any person other
79 than the alleged perpetrator of the abuse or neglect. The response shall be given within ten
80 working days of the time it was received by the division;

81 (10) Any person who inquires about a child abuse or neglect report involving a specific
82 child-care facility, child-placing agency, residential-care facility, public and private elementary
83 schools, public and private secondary schools, juvenile court or other state agency. The
84 information available to these persons is limited to the nature and disposition of any report
85 contained in the central registry and shall not include any identifying information pertaining to
86 any person mentioned in the report;

87 (11) Any state agency acting pursuant to statutes regarding a license of any person,
88 institution, or agency which provides care for or services to children;

89 (12) Any child fatality review panel established pursuant to section 210.192 or any state
90 child fatality review panel established pursuant to section 210.195;

91 (13) Any person who is a tenure-track or full-time research faculty member at an
92 accredited institution of higher education engaged in scholarly research, with the permission of
93 the director. Prior to the release of any identifying information, the director shall require the
94 researcher to present a plan for maintaining the confidentiality of the identifying information.
95 The researcher shall be prohibited from releasing the identifying information of individual cases.

96 3. Only the following persons shall have access to records maintained by the division
97 pursuant to section 210.152 for which the division has received a report of child abuse and
98 neglect and which the division has determined that there is insufficient evidence or in which the
99 division proceeded with the family assessment and services approach:

100 (1) Appropriate staff of the division;

(2) Any child named in the report as a victim, or a legal representative, or the parent or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent. The names or other identifying information of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide for a method for confirming or certifying that a designee is acting on behalf of a subject;

(3) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(4) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(5) Appropriate criminal justice agency personnel or juvenile officer;

(6) Multidisciplinary agency or individual including a physician or physician's designee who is providing services to the child or family, with the consent of the parent or guardian of the child or legal representative of the child;

(7) Any person engaged in bona fide research purpose, with the permission of the director; provided, however, that no information identifying the subjects of the reports or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the subject, or if a child, through the child's parent or guardian, provides written permission.

4. The division may share any records, information, and findings with federal, state, or local child welfare agency personnel and law enforcement agencies, including those from outside the state, or any agent of such entities, in the performance of his or her official duties, upon a reasonable belief that such information is needed to protect a child from abuse or neglect or to assist such agency in providing child welfare services. Such information may include, but is not limited to, substantiated or unsubstantiated reports of abuse or neglect, family assessments, and any other documents or information the division deems necessary for another agency to have access to in order to protect a child. Unsubstantiated reports may be shared only if the children's division reasonably believes

137 **the receiving entity will prevent the unauthorized dissemination of the information**
138 **contained therein.**

139 **5.** Any person who knowingly violates the provisions of this section, or who permits or
140 encourages the unauthorized dissemination of information contained in the information system
141 or the central registry and in reports and records made pursuant to sections 210.109 to 210.183,
142 shall be guilty of a class A misdemeanor.

143 ~~[5.]~~ **6.** Nothing in this section shall preclude the release of findings or information about
144 cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of
145 the director of the department of social services, based upon a review of the potential harm to
146 other children within the immediate family.

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