

SECOND REGULAR SESSION

HOUSE BILL NO. 2040

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KELLY (141).

5757H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 210, RSMo, by adding thereto one new section relating to child abuse investigations, with penalty provisions.

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

Section A. Chapter 210, RSMo, is amended by adding thereto one new section, to be
2 known as section 210.143, to read as follows:

210.143. 1. For the purpose of any investigation or proceeding relating to child
2 abuse or neglect, the director of the department of social services or his or her designee or
3 the attorney general or his or her designee may administer oaths and affirmations;
4 subpoena witnesses; compel witness attendance; take testimony; require answers to written
5 interrogatories; and require production of any books, papers, correspondence,
6 memoranda, agreements, or other documents or records that the director of the
7 department or the attorney general deem relevant and material to the investigation.

8 2. The children's division, juvenile officer, or prosecuting attorney may petition the
9 circuit court on an ex parte basis for an order directing a parent, guardian, or other person
10 with care, custody, or control of a child who is the subject of an investigation of child abuse
11 or neglect to present the child to a physician or other medical care provider designated by
12 the children's division at a place and time designated by the court for a sexual assault
13 forensic examination (SAFE), physical examination, psychological evaluation, interview,
14 or other medical or diagnostic testing.

15 3. The court shall enter an ex parte order under subsection 2 of this section if the
16 court determines that there is probable cause to suspect that the child has been abused or

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 neglected and the examination or interview is reasonably necessary for the completion of
18 an investigation or the collection of evidence.

19 4. The petition and order may be made on an ex parte basis if it is reasonable to
20 believe that providing notice may place the child at risk for further abuse or neglect, if it
21 is reasonable to believe that providing notice may cause the child to be removed from the
22 state of Missouri or the jurisdiction of the court, or if it is reasonable to believe that
23 evidence relevant to the investigation will be unavailable if the ex parte order is not
24 entered.

25 5. Any person served with a subpoena, petition, or order under this section shall
26 not be required to file an answer, but may file a motion for a protective order or other
27 appropriate relief. The motion shall be filed at or before the time for production or
28 disclosure set out in the subpoena or order. The motion shall be in writing, but it may be
29 informal and no particular form shall be required. The clerk shall serve a copy of the
30 motion on the director of the children's division or on the agency who applied for the
31 order. The court shall expedite a hearing on the motion and shall issue its decision no later
32 than one business day after the date the motion is filed. The court may review the motion
33 in camera and stay implementation of the order once for up to three days. Any
34 information that may reveal the identity of a hotline reporter shall not be disclosed to
35 anyone in any proceeding under this subsection unless otherwise allowed by law.

36 6. The petition for a subpoena or an order under this section shall be filed in the
37 juvenile or family court that may have taken judicial custody of the child under section
38 211.031 or in the circuit court of the county:

- 39 (1) Where the child resides;
40 (2) Where the child may be found;
41 (3) Where the parent or legal guardian of the child resides or may be found;
42 (4) Where the alleged perpetrator of the child abuse or neglect resides or may be
43 found;
44 (5) Where the subject of the subpoena may be located or found; or
45 (6) Of Cole if none of the other venue provisions of this subsection apply.

46 7. The court shall expedite all proceedings under this section so as to ensure the
47 safety of the child, the preservation of relevant evidence, that child abuse and neglect
48 investigations may be completed within statutory timeframes, and that due process is
49 provided to the parties involved.

50 8. Any person served with an investigative demand or subpoena shall preserve the
51 information requested until produced or until further order of the court. Any person who
52 knowingly violates this subsection shall be guilty of a class A misdemeanor.

53 **9. The timeframes for the children's division to complete its investigation and notify**
54 **the alleged perpetrator of its decision set forth in sections 210.145, 210.152, and 210.183**
55 **shall be tolled from the date that the division files a petition for a subpoena until the**
56 **information is produced in full, until such subpoena is withdrawn, or until a court of**
57 **competent jurisdiction quashes such subpoena.**

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