

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1123 & 1221, Page 1, Section A, Line 3, by
2 inserting after all of said section and line the following:

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4 "37.710. 1. The office shall have access to the following information:

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

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

9 (3) All current records required to be maintained pursuant to chapters 210 and 211.

10 2. The office shall have the authority:

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

14 (2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the
15 juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other
16 agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or
17 has received treatment within this state or in another state;

18 (3) To work in conjunction with juvenile officers and guardians ad litem;

19 (4) To file any findings or reports of the child advocate regarding the parent or child with the court,
20 and issue recommendations regarding the disposition of an investigation, which may be provided to the court
21 and to the investigating agency;

22 (5) To file amicus curiae briefs on behalf of the interests of the parent or child, or to file such
23 pleadings necessary to intervene on behalf of the child at the appropriate judicial level using the resources of
24 the office of the attorney general;

25 (6) To initiate meetings with the department of social services, the department of mental health, the
26 juvenile court, and juvenile officers;

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

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

33 (9) Subject to appropriation, to establish as needed local panels on a regional or county basis to
34 adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely
35 manner; and

36 (10) To mediate between alleged victims of sexual misconduct and school districts or charter schools
37 as provided in subsection 1 of section 160.262.

38 3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the
39 office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements
40 that apply to the state agency or entity providing such information to the office of child advocate. For

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1 information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of
2 child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply
3 to the children's division regarding information obtained during a child abuse and neglect investigation
4 resulting in an unsubstantiated report. Nothing in this section shall preclude the office of child advocate from
5 releasing findings regarding the professional performance of any individual member of the multidisciplinary
6 team as described in section 660.520.

7 210.152. 1. All information, including telephone reports reported pursuant to section
8 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division or
9 removed from the records of the division as follows:

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

12 (2) (a) For investigation reports initiated against a person required to report pursuant to section
13 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division
14 determines the allegation of abuse or neglect was made maliciously, for purposes of harassment, or in
15 retaliation for the filing of a report by a person required to report, identifying information shall be expunged
16 by the division within forty-five days from the conclusion of the investigation;

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

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

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

36 (3) For reports where the division uses the family assessment and services approach, information
37 shall be retained by the division;

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

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

46 (1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a
47 preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that the division shall
48 retain all information regarding the abuse or neglect; that such information shall remain confidential and will
49 not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section
50 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of
51 the division's determination through a review by the child abuse and neglect review board as provided in
52 subsection 4 of this section;

53 (2) That the division has not made a probable cause finding or determined by a preponderance of the

1 evidence that abuse or neglect exists; or

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

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

7 4. Any person named in an investigation as a perpetrator who is aggrieved by a determination of
8 abuse or neglect by the division as provided in this section may seek an administrative review by the child
9 abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall
10 be made within sixty days of notification of the division's decision under this section. In those cases where
11 criminal charges arising out of facts of the investigation are pending, the request for review shall be made
12 within sixty days from the court's final disposition or dismissal of the charges. Nothing in this section shall
13 preclude the office of child advocate from releasing findings regarding the professional performance of any
14 individual member of the multidisciplinary team as described in section 660.520.

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

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

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

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33 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.