

SECOND REGULAR SESSION

# HOUSE BILL NO. 2227

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE KELLY (141).

3974H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 210.560, RSMo, and to enact in lieu thereof one new section relating to money held by the children's division for the benefit of a child.

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

Section A. Section 210.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.560, to read as follows:

210.560. 1. As used in this section, the following terms shall mean:

(1) "Child", any child placed in the legal custody of the division under chapter 211;

(2) "Division", the children's division of the department of social services of the state of Missouri;

(3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or check;

(4) "Unmet needs", needs for which the division is not required by law to provide financial support, such as:

(a) Tuition, tutoring, and training, including application fees, books, equipment, and testing;

(b) Transportation to work, training, education, or to maintain family connections;

(c) Housing expenses if the child is preparing to leave the custody of the division for reasons relating to the child's age; and

(d) Technology, special clothing needs, instruments, books, and other equipment relating to the child's hobbies and interests;

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           **(5)** "Vested right", a legal right that is more than a mere expectancy and may be  
18 reduced to a present monetary value.

19           2. The child, the child's parents, any fiduciary or any representative payee holding or  
20 receiving money that are vested rights solely for or on behalf of a child are jointly and  
21 severally liable for funds expended by the division to or on behalf of the child. The liability  
22 of any person, except a parent of the child, shall be limited to the money received in his or her  
23 fiduciary or representative capacity. The Missouri state government shall not require a trustee  
24 or a financial institution acting as a trustee to exercise any discretionary powers in the  
25 operation of a trust.

26           3. **(1)** The division may accept an appointment to serve as representative payee or  
27 fiduciary, or in a similar capacity for payments to a child under any public or private benefit  
28 arrangement. Money so received shall be governed by this section to the extent that laws and  
29 regulations governing payment of such benefits provide otherwise.

30           **(2)** **In the case of benefits administered by the Railroad Retirement Board, the**  
31 **Social Security Administration, or the Veterans Administration, the division shall**  
32 **determine whether the child is receiving or otherwise eligible to receive such benefits**  
33 **within sixty days after the child is placed in the division's custody. If the division**  
34 **determines that the child is eligible or may be eligible for the benefits, the division shall**  
35 **apply for the benefits on behalf of the child. If the child is already receiving the benefits**  
36 **before being placed in the division's custody or if the division applies for the benefits on**  
37 **behalf of the child, the division shall identify, in consultation with the child and the**  
38 **child's legal representative, a representative payee in accordance with 20 CFR 404.2021**  
39 **and 20 CFR 416.621 and shall apply to become the representative payee only if no other**  
40 **suitable candidate is available. The division shall annually review if someone other than**  
41 **the division is available, if in the best interests of the child, to apply to assume the role of**  
42 **representative payee.**

43           **(3)** **The division shall annually review cases of children in the division's custody**  
44 **to determine whether a child may have become eligible for benefits after the division's**  
45 **initial assessment.**

46           4. Any money received by the division on behalf of a child shall be accounted for in  
47 the name of the child. Any money in the account of a child ~~may~~ **shall not** be expended by  
48 the division for care or services for the child **including, but not limited to, foster care**  
49 **maintenance expenses, as defined in 42 U.S.C. Section 675(4)(A), and any special**  
50 **allowances or expenses established by the division for the care of children in the**  
51 **division's custody, for a child of a similar age; provided, however, that the division may**  
52 **use the benefits administered by the Railroad Retirement Board, the Social Security**  
53 **Administration, or the Veterans Administration for the child's unmet needs beyond**

54 **what the division is obligated, required, or agrees to pay.** The division shall by rule  
55 adopted under chapter 536 establish procedures for the accounting of the money and the  
56 protection of the money against theft, loss or misappropriation.

57 5. The division shall deposit money with a financial institution. Any earnings  
58 attributable to the money in the account of a child shall be credited to that child's account.  
59 The division shall receive bids from banking corporations, associations or trust companies  
60 which desire to be selected as depositories of children's moneys for the division. **The child's**  
61 **account shall be established in a manner consistent with federal and state asset and**  
62 **resource limits and may include a special-needs trust, a pooled special-needs trust, an**  
63 **ABLE account as defined in section 209.600, or any other trust account determined not**  
64 **to interfere with asset limitations for any state or federal benefit program for which the**  
65 **child may be eligible.**

66 6. The division may accept funds which a parent, guardian or other person wishes to  
67 provide for the use or benefit of the child. The use and deposit of such funds shall be  
68 governed by this section and any additional directions given by the provider of the funds.

69 7. Each child for whose benefit funds have been received by the division and the  
70 guardian ad litem of such child shall be furnished annually with a statement listing all  
71 transactions involving the funds which have been deposited on the child's behalf, to include  
72 each receipt and disbursement.

73 8. The division shall use all proper diligence to dispose of the balance of money  
74 accumulated in the child's account when the child is released from the care and custody of the  
75 division or the child dies. When the child is deceased the balance shall be disposed of as  
76 provided by law for descent and distribution. If, after the division has diligently used such  
77 methods and means as considered reasonable to refund such funds, there shall remain any  
78 money, the owner of which is unknown to the division, or if known, cannot be located by the  
79 division, in each and every such instance such money shall escheat and vest in the state of  
80 Missouri, and the director and officials of the division shall pay the same to the state director  
81 of the department of revenue, taking a receipt therefor, who shall deposit the money in the  
82 state treasury to be credited to a fund to be designated as "escheat".

83 9. Within five years after money has been paid into the state treasury, any person who  
84 appears and claims the money may file a petition in the circuit court of Cole County,  
85 Missouri, stating the nature of the claim and praying that such money be paid to him. A copy  
86 of the petition shall be served upon the director of the department of revenue who shall file an  
87 answer to the same. The court shall proceed to examine the claim and the allegations and  
88 proof, and if it finds that such person is entitled to any money so paid into the state treasury, it  
89 shall order the commissioner of administration to issue a warrant on the state treasurer for the  
90 amount of such claim, but without interest or costs. A certified copy of the order shall be

91 sufficient voucher for issuing a warrant; provided, that either party may appeal from the  
92 decision of the court in the same manner as provided by law in other civil actions.

93         10. All moneys paid into the state treasury under the provisions of this section after  
94 remaining there unclaimed for five years shall escheat and vest absolutely in the state and be  
95 credited to the state treasury, and all persons shall be forever barred and precluded from  
96 setting up title or claim to any such funds.

97         11. Nothing in this section shall be deemed to apply to funds regularly due the state of  
98 Missouri for the support and maintenance of children in the care and custody of the division  
99 or collected by the state of Missouri as reimbursement for state funds expended on behalf of  
100 the child.

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