

FIRST REGULAR SESSION

HOUSE BILL NO. 570

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURLBERT.

0844H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.110, 568.060, and 578.421, RSMo, and to enact in lieu thereof three new sections relating to abuse or neglect of a child, with penalty provisions.

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

Section A. Sections 210.110, 568.060, and 578.421, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 210.110, 568.060, and 578.421,
3 to read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183,
2 the following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,
5 except that discipline including spanking, administered in a reasonable manner, shall not be
6 construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or
7 severe forms of trafficking as those terms are defined in ~~[22 U.S.C. 78 Section 7102(9)-(10)]~~
8 **22 U.S.C. Section 7102, as amended;**

9 (2) "Assessment and treatment services for children", an approach to be developed by
10 the children's division which will recognize and treat the specific needs of at-risk and abused
11 or neglected children. The developmental and medical assessment may be a broad physical,
12 developmental, and mental health screening to be completed within thirty days of a child's
13 entry into custody and in accordance with the periodicity schedule set forth by the American
14 Academy of Pediatrics thereafter as long as the child remains in care. Screenings may be
15 offered at a centralized location and include, at a minimum, the following:

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.

16 (a) Complete physical to be performed by a pediatrician familiar with the effects of
17 abuse and neglect on young children;

18 (b) Developmental, behavioral, and emotional screening in addition to early periodic
19 screening, diagnosis, and treatment services, including a core set of standardized and
20 recognized instruments as well as interviews with the child and appropriate caregivers. The
21 screening battery may be performed by a licensed mental health professional familiar with the
22 effects of abuse and neglect on young children, who will then serve as the liaison between all
23 service providers in ensuring that needed services are provided. Such treatment services may
24 include in-home services, out-of-home placement, intensive twenty-four-hour treatment
25 services, family counseling, parenting training and other best practices.

26

27 Children whose screenings indicate an area of concern may complete a comprehensive, in-
28 depth health, psychodiagnostic, or developmental assessment within sixty days of entry into
29 custody;

30 (3) "Central registry", a registry of persons where the division has found probable
31 cause to believe prior to August 28, 2004, or by a preponderance of the evidence after August
32 28, 2004, or a court has substantiated through court adjudication that the individual has
33 committed child abuse or neglect or the person has pled guilty or has been found guilty of a
34 crime pursuant to section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or
35 567.050 if the victim is a child less than eighteen years of age, or any other crime pursuant to
36 chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is
37 twenty-one years of age or older, a crime under section 568.020, 568.030, 568.045, 568.050,
38 568.060, 568.080, 568.090, 573.023, 573.025, 573.035, 573.037, 573.040, 573.200, or
39 573.205, or an attempt to commit any such crimes. Any persons placed on the registry prior
40 to August 28, 2004, shall remain on the registry for the duration of time required by section
41 210.152;

42 (4) "Child", any person, regardless of physical or mental condition, under eighteen
43 years of age;

44 (5) "Children's services providers and agencies", any public, quasi-public, or private
45 entity with the appropriate and relevant training and expertise in delivering services to
46 children and their families as determined by the children's division, and capable of providing
47 direct services and other family services for children in the custody of the children's division
48 or any such entities or agencies that are receiving state moneys for such services;

49 (6) "Director", the director of the Missouri children's division within the department
50 of social services;

51 (7) "Division", the Missouri children's division within the department of social
52 services;

53 (8) "Family assessment and services", an approach to be developed by the children's
54 division which will provide for a prompt assessment of a child who has been reported to the
55 division as a victim of abuse or neglect by a person responsible for that child's care, custody
56 or control and of that child's family, including risk of abuse and neglect and, if necessary, the
57 provision of community-based services to reduce the risk and support the family;

58 (9) "Family support team meeting" or "team meeting", a meeting convened by the
59 division or children's services provider in behalf of the family and/or child for the purpose of
60 determining service and treatment needs, determining the need for placement and developing
61 a plan for reunification or other permanency options, determining the appropriate placement
62 of the child, evaluating case progress, and establishing and revising the case plan;

63 (10) "Investigation", the collection of physical and verbal evidence to determine if a
64 child has been abused or neglected;

65 (11) "Jail or detention center personnel", employees and volunteers working in any
66 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
67 provided to persons who are being held under custody of the law;

68 (12) "Neglect", failure to provide, by those responsible for the care, custody, and
69 control of the child, the proper or necessary support, education as required by law, nutrition or
70 medical, surgical, or any other care necessary for the child's well-being, **except that neglect**
71 **shall not be found by virtue of the sole fact that a person allows a child to engage in**
72 **independent activities without adult supervision including, but not limited to, traveling**
73 **to or from school or nearby locations by bicycle or on foot, playing outdoors, or**
74 **remaining at home for a reasonable period of time, provided such activities are**
75 **appropriate based on the child's age, maturity, and physical and mental abilities, and**
76 **the lack of adult supervision does not constitute conduct that is so grossly negligent as to**
77 **endanger the health or safety of the child.** Victims of neglect shall also include any victims
78 of sex trafficking or severe forms of trafficking as those terms are defined in ~~[22 U.S.C. 78~~
79 ~~Section 7102(9)-(10)] 22 U.S.C. Section 7102, as amended;~~

80 (13) "Preponderance of the evidence", that degree of evidence that is of greater
81 weight or more convincing than the evidence which is offered in opposition to it or evidence
82 which as a whole shows the fact to be proved to be more probable than not;

83 (14) "Probable cause", available facts when viewed in the light of surrounding
84 circumstances which would cause a reasonable person to believe a child was abused or
85 neglected;

86 (15) "Report", the communication of an allegation of child abuse or neglect to the
87 division pursuant to section 210.115;

88 (16) "Those responsible for the care, custody, and control of the child", includes, but
89 is not limited to:

- 90 (a) The parents or legal guardians of a child;
91 (b) Other members of the child's household;
92 (c) Those exercising supervision over a child for any part of a twenty-four-hour day;
93 (d) Any adult person who has access to the child based on relationship to the parents
94 of the child or members of the child's household or the family;
95 (e) Any person who takes control of the child by deception, force, or coercion; or
96 (f) School personnel, contractors, and volunteers, if the relationship with the child
97 was established through the school or through school-related activities, even if the alleged
98 abuse or neglect occurred outside of school hours or off school grounds.

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

- 2 (1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any
3 person eighteen years of age or older. For purposes of this section, abuse shall not include
4 injury inflicted on a child by accidental means by a person with care, custody, or control of
5 the child, or discipline of a child by a person with care, custody, or control of the child,
6 including spanking, in a reasonable manner;
7 (2) "Abusive head trauma", a serious physical injury to the head or brain caused by
8 any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting,
9 or kicking;
10 (3) "Mental injury", an injury to the intellectual or psychological capacity or the
11 emotional condition of a child as evidenced by an observable and substantial impairment of
12 the ability of the child to function within his or her normal range of performance or behavior;
13 (4) "Neglect", the failure to provide, by those responsible for the care, custody, and
14 control of a child under the age of eighteen years, the care reasonable and necessary to
15 maintain the physical and mental health of the child, when such failure presents a substantial
16 probability that death or physical injury or sexual injury would result;
17 (5) "Physical injury", physical pain, illness, or any impairment of physical condition,
18 including but not limited to bruising, lacerations, hematomas, welts, or permanent or
19 temporary disfigurement and impairment of any bodily function or organ;
20 (6) "Serious emotional injury", an injury that creates a substantial risk of temporary or
21 permanent medical or psychological damage, manifested by impairment of a behavioral,
22 cognitive, or physical condition. Serious emotional injury shall be established by testimony
23 of qualified experts upon the reasonable expectation of probable harm to a reasonable degree
24 of medical or psychological certainty;
25 (7) "Serious physical injury", a physical injury that creates a substantial risk of death
26 or that causes serious disfigurement or protracted loss or impairment of the function of any
27 part of the body.

28 2. A person commits the offense of abuse or neglect of a child if such person
29 knowingly causes a child who is less than eighteen years of age:

30 (1) To suffer physical or mental injury as a result of abuse or neglect; or

31 (2) To be placed in a situation in which the child may suffer physical or mental injury
32 as the result of abuse or neglect.

33 3. A person commits the offense of abuse or neglect of a child if such person
34 recklessly causes a child who is less than eighteen years of age to suffer from abusive head
35 trauma.

36 4. A person does not commit the offense of abuse or neglect of a child by virtue of the
37 sole fact that the person delivers or allows the delivery of a child to a provider of emergency
38 services.

39 **5. (1) A person does not commit the offense of abuse or neglect of a child by**
40 **virtue of the sole fact that the person allows the child to engage in independent activities**
41 **without adult supervision and the person is a parent to the child or is responsible for the**
42 **child's care, provided that the:**

43 **(a) Independent activities are appropriate based on the child's age, maturity,**
44 **and physical and mental abilities; and**

45 **(b) Lack of adult supervision does not constitute conduct that is so grossly**
46 **negligent as to endanger the health or safety of the child.**

47 **(2) As used in this subsection, "independent activities" shall include traveling to**
48 **or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining**
49 **at home for a reasonable period of time without adult supervision.**

50 ~~[5-]~~ 6. The offense of abuse or neglect of a child is:

51 (1) A class D felony, without eligibility for probation, parole, or conditional release
52 until the defendant has served no less than one year of such sentence, unless the person has
53 previously been found guilty of a violation of this section or of a violation of the law of any
54 other jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child
55 is a serious emotional injury or a serious physical injury, in which case abuse or neglect of a
56 child is a class B felony, without eligibility for probation or parole until the defendant has
57 served not less than five years of such sentence; or

58 (2) A class A felony if the child dies as a result of injuries sustained from conduct
59 chargeable under the provisions of this section.

60 ~~[6-]~~ 7. Notwithstanding subsection ~~[5]~~ 6 of this section to the contrary, the offense of
61 abuse or neglect of a child is a class A felony, without eligibility for probation, parole, or
62 conditional release until the defendant has served not less than fifteen years of such sentence,
63 if:

64 (1) The injury is a serious emotional injury or a serious physical injury;

65 (2) The child is less than fourteen years of age; and

66 (3) The injury is the result of sexual abuse or sexual abuse in the first degree as
67 defined under section 566.100 or sexual exploitation of a minor as defined under section
68 573.023.

69 ~~[7-]~~ **8.** The circuit or prosecuting attorney may refer a person who is suspected of
70 abuse or neglect of a child to an appropriate public or private agency for treatment or
71 counseling so long as the agency has consented to taking such referrals. Nothing in this
72 subsection shall limit the discretion of the circuit or prosecuting attorney to prosecute a
73 person who has been referred for treatment or counseling pursuant to this subsection.

74 ~~[8-]~~ **9.** Nothing in this section shall be construed to alter the requirement that every
75 element of any crime referred to herein must be proven beyond a reasonable doubt.

76 ~~[9-]~~ **10.** Discipline, including spanking administered in a reasonable manner, shall not
77 be construed to be abuse under this section.

578.421. 1. Sections 578.421 to 578.437 shall be known and may be cited as the
2 "Missouri Criminal Street Gangs Prevention Act".

3 2. As used in sections 578.421 to 578.437, the following terms mean:

4 (1) "Criminal street gang", any ongoing organization, association, or group of three or
5 more persons, whether formal or informal, having as one of its motivating activities the
6 commission of one or more of the criminal acts enumerated in subdivision (2) of this
7 subsection, whose members individually or collectively engage in or have engaged in a
8 pattern of criminal gang activity;

9 (2) "Pattern of criminal street gang activity", the commission, attempted commission,
10 or solicitation of two or more of the following offenses, provided at least one of those
11 offenses occurred after August 28, 1993, and the last of those offenses occurred within three
12 years after a prior offense, and the offenses are committed on separate occasions, or by two or
13 more persons:

14 (a) Assault with a deadly weapon or by means of force likely to cause serious
15 physical injury, as provided in sections 565.050 and 565.052;

16 (b) Robbery, arson and those offenses under chapter 569 which are related to robbery
17 and arson;

18 (c) Murder or manslaughter, as provided in sections 565.020 to 565.024;

19 (d) Any violation of the provisions of chapter 579 which involves the distribution,
20 delivery or manufacture of a substance prohibited by chapter 579;

21 (e) Unlawful use of a weapon which is a felony pursuant to section 571.030;

22 (f) Tampering with witnesses and victims, as provided in section 575.270;

23 (g) Promoting online sexual solicitation, as provided in section 566.103;

24 (h) Sexual trafficking of a child in the first degree, as provided in section 566.210;

- 25 (i) Sexual trafficking of a child in the second degree, as provided in section 566.211;
- 26 (j) Patronizing prostitution, as provided in subsection 4 of section 567.030;
- 27 (k) Promoting prostitution in the first degree, as provided in section 567.050;
- 28 (l) Promoting prostitution in the second degree, as provided in section 567.060;
- 29 (m) Abuse or neglect of a child, as provided in subsection ~~6~~ 7 of section 568.060;
- 30 (n) Sexual exploitation of a minor, as provided in section 573.023;
- 31 (o) Child used in sexual performance, as provided in section 573.200;
- 32 (p) Promoting sexual performance by a child, as provided in section 573.205; or
- 33 (q) Any dangerous felony, as defined in section 556.061.

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