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[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 737 & 486
103RD GENERAL ASSEMBLY

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JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 210.110, 210.560, 211.221, 568.060, and 578.421, RSMo, and to enact in lieu thereof five new sections relating to the protection of children, with penalty provisions.

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

Section A. Sections 210.110, 210.560, 211.221, 568.060, and 578.421, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 210.110,
3 210.560, 211.221, 568.060, and 578.421, 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.

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

- 2 (1) "Child", any child **or youth** placed in the legal custody of the division under
3 chapter 211;
4 (2) "Division", the children's division of the department of social services of the state
5 of Missouri;
6 (3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or
7 check;
8 (4) **"Unmet needs", needs for which the division is not required by law to**
9 **provide financial support, including, but not limited to, the following:**
10 (a) **Tuition, tutoring, and training, including application fees, books, equipment,**
11 **and testing;**
12 (b) **Transportation to and from work, training, education, or to maintain family**
13 **connections;**
14 (c) **Housing expenses if the child or youth is preparing to leave the custody of the**
15 **division for reasons relating to the child's or youth's age; and**
16 (d) **Technology, special clothing needs, instruments, books, and other equipment**
17 **relating to the child's or youth's hobbies and interests;**
18 (5) "Vested right", a legal right that is more than a mere expectancy and may be
19 reduced to a present monetary value;
20 (6) **"Youth", any child under the legal custody of the division where jurisdiction**
21 **has been granted under section 211.041.**

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

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

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

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

50 4. Any money received by the division on behalf of a child **or youth** shall be
51 accounted for in the name of the child **or youth**. Any money in the account of a child [~~may~~]
52 **or youth shall not** be expended by the division for care or services for the child **or youth**
53 **including, but not limited to, foster care maintenance expenses, as defined in 42 U.S.C.**
54 **Section 675(4)(A), and any special allowances or expenses established by the division for**
55 **the care of children or youth in the division's custody, for a child or youth of a similar**
56 **age; provided, however, that the division may use the benefits administered by the**
57 **Railroad Retirement Board, the Social Security Administration, or the Veterans**
58 **Administration for the child's or youth's unmet needs beyond what the division is**
59 **obligated, required, or agrees to pay.** The division shall by rule adopted under chapter 536
60 establish procedures for the accounting of the money and the protection of the money against
61 theft, loss or misappropriation.

62 5. The division shall deposit money with a financial institution. Any earnings
63 attributable to the money in the account of a child **or youth** shall be credited to that child's **or**
64 **youth's** account. The division shall receive bids from banking corporations, associations or
65 trust companies which desire to be selected as depositories of children's **or youth's** moneys

66 for the division. **The child's or youth's account shall be established in a manner**
67 **consistent with federal and state asset and resource limits and may include a special**
68 **needs trust, a pooled special needs trust, an ABLE account as defined in section 209.600,**
69 **or any other trust account determined not to interfere with asset limitations for any**
70 **state or federal benefit program for which the child or youth may be eligible.**

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

74 7. Each child **or youth** for whose benefit funds have been received by the division
75 and the guardian ad litem of such child **or youth** shall be furnished annually with a statement
76 listing all transactions involving the funds which have been deposited on the child's **or**
77 **youth's** behalf, to include each receipt and disbursement.

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

89 9. Within five years after money has been paid into the state treasury, any person who
90 appears and claims the money may file a petition in the circuit court of Cole County,
91 Missouri, stating the nature of the claim and praying that such money be paid to him. A copy
92 of the petition shall be served upon the director of the department of revenue who shall file an
93 answer to the same. The court shall proceed to examine the claim and the allegations and
94 proof, and if it finds that such person is entitled to any money so paid into the state treasury, it
95 shall order the commissioner of administration to issue a warrant on the state treasurer for the
96 amount of such claim, but without interest or costs. A certified copy of the order shall be
97 sufficient voucher for issuing a warrant; provided, that either party may appeal from the
98 decision of the court in the same manner as provided by law in other civil actions.

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

103 11. Nothing in this section shall be deemed to apply to funds regularly due the state of
104 Missouri for the support and maintenance of children **or youth** in the care and custody of the
105 division or collected by the state of Missouri as reimbursement for state funds expended on
106 behalf of the child **or youth**.

107 **12. (1) Subject to appropriation, the department of social services shall have the**
108 **authority to enter into contracts with private individuals, law firms, not-for-profit**
109 **corporations, or partnerships to apply for benefits on behalf of a child or youth in its**
110 **custody or under its court-ordered supervision pursuant to chapter 211 for the benefits**
111 **administered by the Railroad Retirement Board, the Social Security Administration, or**
112 **the Veterans Administration, and to establish accounts as set forth in subsection 5 of this**
113 **section.**

114 **(2) The department may promulgate all necessary rules and regulations for the**
115 **administration of this subsection. Any rule or portion of a rule, as that term is defined**
116 **in section 536.010, that is created under the authority delegated in this section shall**
117 **become effective only if it complies with and is subject to all of the provisions of chapter**
118 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable**
119 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
120 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**
121 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
122 **adopted after August 28, 2025, shall be invalid and void.**

211.221. In placing a child in or committing a child to the custody of an individual or
2 of a private agency or institution the court, **children's division, or any child-placing agency**
3 **contracting with the state to provide foster care services** shall whenever practicable select
4 either a person, or an agency or institution governed by persons of the same religious faith as
5 that of the parents of such child, or in case of a difference in the religious faith of the parents,
6 then of the religious faith of the child or if the religious faith of the child is not ascertainable,
7 then of the faith of either of the parents. **The department of social services may contract to**
8 **implement the provisions of this section.**

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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