

FIRST REGULAR SESSION

# HOUSE BILL NO. 1292

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PARKER.

2630H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal sections 135.341, 491.075, and 492.304, RSMo, and to enact in lieu thereof four new sections relating to the protection of children and vulnerable persons.

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

Section A. Sections 135.341, 491.075, and 492.304, RSMo, are repealed and four  
2 new sections enacted in lieu thereof, to be known as sections 135.341, 210.149, 491.075, and  
3 492.304, to read as follows:

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

- 2 (1) "CASA", an entity which receives funding from the court-appointed special  
3 advocate fund established under section 476.777, including an association based in this state,  
4 affiliated with a national association, organized to provide support to entities receiving  
5 funding from the court-appointed special advocate fund;
- 6 (2) "Child advocacy centers", the regional child assessment centers listed in  
7 subsection 2 of section 210.001, including an association based in this state, affiliated with a  
8 national association, and organized to provide support to entities listed in subsection 2 of  
9 section 210.001;
- 10 (3) "Contribution", the amount of donation to a qualified agency;
- 11 (4) "Crisis care center", entities contracted with this state which provide temporary  
12 care for children whose age ranges from birth through seventeen years of age whose parents  
13 or guardian are experiencing an unexpected and unstable or serious condition that requires  
14 immediate action resulting in short-term care, usually three to five continuous, uninterrupted  
15 days, for children who may be at risk for child abuse, neglect, or in an emergency situation;
- 16 (5) "Department", the department of revenue;

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 (6) "Director", the director of the department of revenue;  
18 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;  
19 (8) "Tax liability", the tax due under chapter 143 other than taxes withheld under  
20 sections 143.191 to 143.265.

21 2. For all tax years beginning on or after January 1, 2013, **and ending on or before**  
22 **December 31, 2024**, a tax credit may be claimed in an amount equal to up to fifty percent of a  
23 verified contribution to a qualified agency and shall be named the champion for children tax  
24 credit. **For all tax years beginning on or after January 1, 2025, a tax credit may be**  
25 **claimed in an amount not to exceed seventy percent of a verified contribution to a**  
26 **qualified agency.** The minimum amount of any tax credit issued shall not be less than fifty  
27 dollars and shall be applied to taxes due under chapter 143, excluding sections 143.191 to  
28 143.265. **For all tax years beginning on or after January 1, 2025, a taxpayer shall not be**  
29 **allowed to claim a tax credit under this section in excess of fifty thousand dollars in any**  
30 **tax year.** A contribution verification shall be issued to the taxpayer by the agency receiving  
31 the contribution. Such contribution verification shall include the taxpayer's name, Social  
32 Security number, amount of tax credit, amount of contribution, the name and address of the  
33 agency receiving the credit, and the date the contribution was made. The tax credit provided  
34 under this subsection shall be initially filed for the year in which the verified contribution is  
35 made.

36 3. The cumulative amount of the tax credits redeemed shall not exceed one million  
37 dollars for all fiscal years ending on or before June 30, 2019~~[, and]~~; one million five hundred  
38 thousand dollars for all fiscal years beginning on or after July 1, 2019, **and ending on or**  
39 **before June 30, 2025; and two million five hundred thousand dollars for all fiscal years**  
40 **beginning on or after July 1, 2025.** The amount available shall be equally divided among  
41 the three qualified agencies: CASA, child advocacy centers, or crisis care centers, to be used  
42 towards tax credits issued. In the event tax credits claimed under one agency do not total the  
43 allocated amount for that agency, the unused portion for that agency will be made available to  
44 the remaining agencies equally. In the event the total amount of tax credits claimed for any  
45 one agency exceeds the amount available for that agency, the amount redeemed shall and will  
46 be apportioned equally to all eligible taxpayers claiming the credit under that agency.

47 4. Prior to December thirty-first of each year, each qualified agency shall apply to the  
48 department of social services in order to verify their qualified agency status. Upon a  
49 determination that the agency is eligible to be a qualified agency, the department of social  
50 services shall provide a letter of eligibility to such agency. No later than February first of  
51 each year, the department of social services shall provide a list of qualified agencies to the  
52 department of revenue. All tax credit applications to claim the champion for children tax  
53 credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall

54 apply for the champion for children tax credit by attaching a copy of the contribution  
55 verification provided by a qualified agency to such taxpayer's income tax return.

56 5. Any amount of tax credit which exceeds the tax due or which is applied for and  
57 otherwise eligible for issuance but not issued shall not be refunded but may be carried over to  
58 any subsequent tax year, not to exceed a total of five years.

59 6. Tax credits may not be assigned, transferred or sold.

60 7. ~~[(1)]~~ In the event a **full or partial** credit denial, due to ~~[lack of available funds]~~ **the**  
61 **cumulative maximum amount of credits being redeemed for the fiscal year**, causes ~~[a~~  
62 ~~balance due notice]~~ **an income tax balance due** to be ~~[generated by the department of~~  
63 ~~revenue, or any other redeeming agency]~~ **owed to the state by the taxpayer**, the taxpayer  
64 ~~[will]~~ **shall** not be held liable for any **addition to tax**, penalty, or interest **on that income tax**  
65 **balance due**, provided the balance is paid, or approved payment arrangements have been  
66 made, within sixty days from the **issuance of the** notice of **credit** denial.

67 ~~[(2) In the event the balance is not paid within sixty days from the notice of denial,~~  
68 ~~the remaining balance shall be due and payable under the provisions of chapter 143.]~~

69 8. The department may promulgate such rules or regulations as are necessary to  
70 administer the provisions of this section. Any rule or portion of a rule, as that term is defined  
71 in section 536.010, that is created under the authority delegated in this section shall become  
72 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
73 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
74 powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
75 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then  
76 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,  
77 shall be invalid and void.

78 9. Pursuant to section 23.253, of the Missouri sunset act:

79 (1) The program authorized under this section shall be reauthorized as of ~~[December~~  
80 ~~31, 2019]~~ **August 28, 2025**, and shall expire on December 31, ~~[2025]~~ **2031**, unless  
81 reauthorized by the general assembly; and

82 (2) This section shall terminate on September first of the calendar year immediately  
83 following the calendar year in which the program authorized under this section is sunset; and

84 (3) The provisions of this subsection shall not be construed to limit or in any way  
85 impair the department's ability to redeem tax credits authorized on or before the date the  
86 program authorized under this section expires or a taxpayer's ability to redeem such credits.

87 10. Beginning on March 29, 2013, any verified contribution to a qualified agency  
88 made on or after January 1, 2013, shall be eligible for tax credits as provided by this section.

**210.149. For those advanced practice registered nurses and physician assistants**  
**2 licensed under section 334.950 as a SAFE CARE provider and only providing those**

3 **services listed in section 334.950 at a regional child assessment center listed in section**  
4 **210.001, the collaborative practice arrangement requirements under sections 334.104**  
5 **and 334.735 shall be deemed satisfied by the peer review and mentoring relationship**  
6 **under section 334.950.**

491.075. 1. A statement made by a child under the age of [~~fourteen~~] **eighteen**, or a  
2 vulnerable person, relating to an offense under chapter 565, 566, 568 or 573, performed by  
3 another, not otherwise admissible by statute or court rule, is admissible in evidence in  
4 criminal proceedings in the courts of this state as substantive evidence to prove the truth of  
5 the matter asserted if:

6 (1) The court finds, in a hearing conducted outside the presence of the jury that the  
7 time, content and circumstances of the statement provide sufficient indicia of reliability; and

8 (2) (a) The child or vulnerable person testifies at the proceedings; or

9 (b) The child or vulnerable person is unavailable as a witness; or

10 (c) The child or vulnerable person is otherwise physically available as a witness but  
11 the court finds that the significant emotional or psychological trauma which would result  
12 from testifying in the personal presence of the defendant makes the child or vulnerable person  
13 unavailable as a witness at the time of the criminal proceeding.

14 2. Notwithstanding subsection 1 of this section or any provision of law or rule of  
15 evidence requiring corroboration of statements, admissions or confessions of the defendant,  
16 and notwithstanding any prohibition of hearsay evidence, a statement by a child when under  
17 the age of [~~fourteen~~] **eighteen**, or a vulnerable person, who is alleged to be victim of an  
18 offense under chapter 565, 566, 568 or 573 is sufficient corroboration of a statement,  
19 admission or confession regardless of whether or not the child or vulnerable person is  
20 available to testify regarding the offense.

21 3. A statement may not be admitted under this section unless the prosecuting attorney  
22 makes known to the accused or the accused's counsel his or her intention to offer the  
23 statement and the particulars of the statement sufficiently in advance of the proceedings to  
24 provide the accused or the accused's counsel with a fair opportunity to prepare to meet the  
25 statement.

26 4. Nothing in this section shall be construed to limit the admissibility of statements,  
27 admissions or confessions otherwise admissible by law.

28 5. For the purposes of this section, "vulnerable person" shall mean a person who, as a  
29 result of an inadequately developed or impaired intelligence or a psychiatric disorder that  
30 materially affects ability to function, lacks the mental capacity to consent, or whose  
31 developmental level does not exceed that of an ordinary child of [~~fourteen~~] **seventeen** years  
32 of age.

492.304. 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of [~~fourteen who is alleged to be a victim of~~] **eighteen or a vulnerable person, relating to** an offense under the provisions of chapter 565, 566 [~~or~~], 568, **or 573, if performed by another**, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is being conducted;

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child **or vulnerable person** to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child **or vulnerable person** in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child **or vulnerable person** does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of the child **or vulnerable person** shall not be admissible under this section unless the recording qualifies for admission under section 491.075.

3. If the visual and aural recording of a verbal or nonverbal statement of a child **or vulnerable person** is admissible under this section and the child **or vulnerable person** testifies at the proceeding, it shall be admissible in addition to the testimony of the child **or vulnerable person** at the proceeding whether or not it repeats or duplicates the child's **or vulnerable person's** testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child **or vulnerable person** by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

38           **5. For the purposes of this section, "vulnerable person" shall mean a person**  
39 **who, as a result of an inadequately developed or impaired intelligence or a psychiatric**  
40 **disorder that materially affects the ability to function, lacks the mental capacity to**  
41 **consent, or whose developmental level does not exceed that of an ordinary child of**  
42 **seventeen years of age.**

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