

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2292

103RD GENERAL ASSEMBLY

4920H.03P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 192.2405, 210.115, and 578.012, RSMo, and to enact in lieu thereof nine new sections relating to reporting of abuse and neglect, with penalty provisions.

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

Section A. Sections 192.2405, 210.115, and 578.012, RSMo, are repealed and nine
2 new sections enacted in lieu thereof, to be known as sections 192.2405, 192.2510, 192.2515,
3 210.115, 210.191, 273.410, 273.415, 578.006, and 578.012, to read as follows:

192.2405. 1. The following persons shall be required to immediately report or cause
2 a report to be made to the department under sections 192.2400 to 192.2470:

3 (1) Any person having reasonable cause to suspect that an eligible adult presents a
4 likelihood of suffering serious physical harm, or bullying as defined in subdivision (2) of
5 section 192.2400, and is in need of protective services; and

6 (2) Any adult day care worker, chiropractor, Christian Science practitioner, coroner,
7 dentist, embalmer, employee of the departments of social services, mental health, or health
8 and senior services, employee of a local area agency on aging or an organized area agency on
9 aging program, emergency medical technician, firefighter, first responder, funeral director,
10 home health agency, home health agency employee, hospital and clinic personnel engaged in
11 the care or treatment of others, in-home services owner or provider, in-home services operator
12 or employee, law enforcement officer, long-term care facility administrator or employee,
13 medical examiner, medical resident or intern, mental health professional, minister, nurse,
14 nurse practitioner, optometrist, other health practitioner, peace officer, pharmacist, physical
15 therapist, physician, physician's assistant, podiatrist, probation or parole officer, psychologist,
16 social worker, **animal control officer, animal humane investigator as defined in section**

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 **273.415**, or other person with the responsibility for the care of an eligible adult who has
18 reasonable cause to suspect that the eligible adult has been subjected to abuse or neglect or
19 observes the eligible adult being subjected to conditions or circumstances which would
20 reasonably result in abuse or neglect. Notwithstanding any other provision of this section, a
21 duly ordained minister, clergy, religious worker, or Christian Science practitioner while
22 functioning in his or her ministerial capacity shall not be required to report concerning a
23 privileged communication made to him or her in his or her professional capacity.

24 2. Any other person who becomes aware of circumstances that may reasonably be
25 expected to be the result of, or result in, abuse or neglect of an eligible adult may report to the
26 department.

27 3. The penalty for failing to report as required under subdivision (2) of subsection 1
28 of this section is provided under section 565.188.

29 4. As used in this section, "first responder" means any person trained and authorized
30 by law or rule to render emergency medical assistance or treatment. Such persons may
31 include, but shall not be limited to, emergency first responders, police officers, sheriffs,
32 deputy sheriffs, firefighters, or emergency medical technicians.

**192.2510. 1. All persons providing protective services to eligible adults, as such
2 terms are defined in section 192.2400, and who have direct contact with such adults,
3 shall be required to complete at least one and one-half hour of training within the first
4 sixty days of employment. The training shall include the following:**

5 **(1) Requirements to report animal abuse or neglect and the penalties associated
6 with failure to report under section 273.410;**

7 **(2) How to identify animal abuse or neglect;**

8 **(3) How to make a report of animal abuse or neglect; and**

9 **(4) The relationship between eligible adult abuse or neglect and animal abuse or
10 neglect.**

11 **2. The department of health and senior services, in consultation with animal
12 welfare associations, shall develop or adapt and use available training materials for the
13 training required under this section. Persons required to complete training under this
14 section shall be provided with opportunities to do so during regular working hours.**

15 **3. As used in this section, the following terms shall mean:**

16 **(1) "Animal", dogs, cats, rabbits, and birds;**

17 **(2) "Animal welfare association", a nonprofit organization that is established to
18 promote animal welfare, is recognized by the Internal Revenue Service as tax exempt
19 under the provisions of the Internal Revenue Code Section 501(c)(3) or 501(c)(4), or the
20 corresponding section of any future tax code, and is registered with the secretary of state
21 under chapter 355.**

192.2515. 1. There is hereby established in the department of health and senior services a special office, to be known as the "Office of Special Investigations", to assist in the investigation of reports of abuse, neglect, and exploitation of "eligible adults", defined in this section as having the same meaning given to the term in section 192.2400. The office of special investigations shall:

(1) Upon the request of a local, county, state, or federal law enforcement agency; a county, state, or federal prosecutor; or division of senior and disability services staff, investigate or assist in the investigation of abuse, neglect, or exploitation of an eligible adult. Before initiating an investigation or execution of any search warrant, the office of special investigations shall notify the chief law enforcement officer of the appropriate jurisdiction; and

(2) Upon request of law enforcement, coordinate with and provide assistance, expertise, or training to law enforcement agencies and multidisciplinary teams for the investigation and prosecution of eligible adult abuse, neglect, and exploitation.

2. Investigators for the office of special investigations who are licensed as peace officers by the director of the department of public safety under chapter 590 shall be deemed peace officers within the state of Missouri while acting in an investigation or on behalf of an eligible adult. The power of arrest of an investigator for the office of special investigations acting as a peace officer shall be limited to offenses involving eligible adult abuse, neglect, or exploitation and to situations of imminent danger to the investigator or another person.

3. The director of the department of health and senior services or his or her designee shall have the power to subpoena the production of books, papers, or records when necessary to investigate the potential abuse, neglect, or exploitation of an eligible adult.

4. All reports and records made and maintained by the office of special investigations or local law enforcement relating to criminal investigations conducted under this section, including arrests, shall be available in the same manner as law enforcement records as set forth in sections 610.100 to 610.210. All other records shall be available in the same manner as provided for in sections 192.2435, 192.2500, and 192.2505.

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, peace

7 officer or law enforcement official, **animal control officer, animal humane investigator as**
8 **defined in section 273.415**, volunteer or personnel of a community service program that
9 offers support services for families in crisis to assist in the delegation of any powers regarding
10 the care and custody of a child by a properly executed power of attorney pursuant to sections
11 475.600 to 475.604, or other person with responsibility for the care of children has reasonable
12 cause to suspect that a child has been or may be subjected to abuse or neglect or observes a
13 child being subjected to conditions or circumstances which would reasonably result in abuse
14 or neglect, that person shall immediately report to the division in accordance with the
15 provisions of sections 210.109 to 210.183. No internal investigation shall be initiated until
16 such a report has been made. As used in this section, the term "abuse" is not limited to abuse
17 inflicted by a person responsible for the child's care, custody and control as specified in
18 section 210.110, but shall also include abuse inflicted by any other person.

19 2. If two or more members of a medical institution who are required to report jointly
20 have knowledge of a known or suspected instance of child abuse or neglect, a single report
21 may be made by a designated member of that medical team. Any member who has
22 knowledge that the member designated to report has failed to do so shall thereafter
23 immediately make the report. Nothing in this section, however, is meant to preclude any
24 person from reporting abuse or neglect.

25 3. The reporting requirements under this section are individual, and no supervisor or
26 administrator may impede or inhibit any reporting under this section. No person making a
27 report under this section shall be subject to any sanction, including any adverse employment
28 action, for making such report. Every employer shall ensure that any employee required to
29 report pursuant to subsection 1 of this section has immediate and unrestricted access to
30 communications technology necessary to make an immediate report and is temporarily
31 relieved of other work duties for such time as is required to make any report required under
32 subsection 1 of this section.

33 4. Notwithstanding any other provision of sections 210.109 to 210.183, any child who
34 does not receive specified medical treatment by reason of the legitimate practice of the
35 religious belief of the child's parents, guardian, or others legally responsible for the child, for
36 that reason alone, shall not be found to be an abused or neglected child, and such parents,
37 guardian or other persons legally responsible for the child shall not be entered into the central
38 registry. However, the division may accept reports concerning such a child and may
39 subsequently investigate or conduct a family assessment as a result of that report. Such an
40 exception shall not limit the administrative or judicial authority of the state to ensure that
41 medical services are provided to the child when the child's health requires it.

42 5. In addition to those persons and officials required to report actual or suspected
43 abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183

44 if such person has reasonable cause to suspect that a child has been or may be subjected to
45 abuse or neglect or observes a child being subjected to conditions or circumstances which
46 would reasonably result in abuse or neglect.

47 6. Any person or official required to report pursuant to this section, including
48 employees of the division, who has probable cause to suspect that a child who is or may be
49 under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall
50 report that fact to the appropriate medical examiner or coroner. If, upon review of the
51 circumstances and medical information, the medical examiner or coroner determines that the
52 child died of natural causes while under medical care for an established natural disease, the
53 coroner, medical examiner or physician shall notify the division of the child's death and that
54 the child's attending physician shall be signing the death certificate. In all other cases, the
55 medical examiner or coroner shall accept the report for investigation, shall immediately notify
56 the division of the child's death as required in section 58.452 and shall report the findings to
57 the child fatality review panel established pursuant to section 210.192.

58 7. Any person or individual required to report may also report the suspicion of abuse
59 or neglect to any law enforcement agency or juvenile office. Such report shall not, however,
60 take the place of reporting to the division.

61 8. If an individual required to report suspected instances of abuse or neglect pursuant
62 to this section has reason to believe that the victim of such abuse or neglect is a resident of
63 another state or was injured as a result of an act which occurred in another state, the person
64 required to report such abuse or neglect may, in lieu of reporting to the Missouri children's
65 division, make such a report to the child protection agency of the other state with the authority
66 to receive such reports pursuant to the laws of such other state. If such agency accepts the
67 report, no report is required to be made, but may be made, to the children's division.

68 9. For the purposes of providing supportive services or verifying the status of a youth
69 as unaccompanied or homeless for the purposes of accessing supportive services, the fact that
70 a child is an unaccompanied youth as defined in 42 U.S.C. Section 11434a(6) is not, in and of
71 itself, a sufficient basis for reporting child abuse or neglect, unless the child is under sixteen
72 years of age or is an incapacitated person, as defined in section 475.010. Nothing in this
73 subsection shall limit a mandated reporter from making a report under this section if the
74 mandated reporter knows or has reasonable cause to suspect that an unaccompanied youth has
75 been or may be a victim of abuse or neglect.

**210.191. 1. All children's division employees, and contractors for children's
2 services, who have direct contact with children through the state's child protection and
3 welfare system shall be required to complete at least one and one-half hour of training
4 within the first sixty days of employment or contract. The training shall include the
5 following:**

6 **(1) Requirements to report animal abuse or neglect and the penalties associated**
7 **with failure to report under section 273.410;**

8 **(2) How to identify animal abuse or neglect;**

9 **(3) How to make a report of animal abuse or neglect; and**

10 **(4) The relationship between child abuse or neglect and animal abuse or neglect.**

11 **2. The division, in consultation with animal welfare associations, shall develop or**
12 **adapt and use available training materials for the training required under this section.**
13 **Persons required to complete training under this section shall be provided with**
14 **opportunities to do so during regular working hours.**

15 **3. As used in this section, the following terms shall mean:**

16 **(1) "Animal", dogs, cats, rabbits, and birds;**

17 **(2) "Animal welfare association", the same meaning as in section 192.2510.**

273.410. 1. When any psychologist, mental health professional, social worker,
2 **school counselor, teacher, or other school professional, or juvenile officer, law**
3 **enforcement or peace officer, probation or parole officer, home health aide, adult or**
4 **child protective services worker, or volunteer or personnel of a community service**
5 **program that offers support or advocacy services for children in foster care has**
6 **reasonable cause to suspect that an animal has been or may be subjected to abuse or**
7 **neglect or observes an animal being subjected to conditions or circumstances that would**
8 **reasonably result in abuse or neglect, that person shall make a report to the hotline**
9 **established and operated by the Missouri Animal Control Association (MACA) within**
10 **one day.**

11 **2. The hotline worker shall request all of the following information for the**
12 **report:**

13 **(1) The name and description of the animal involved, if known;**

14 **(2) The address and telephone number of the owner or other person responsible**
15 **for the care of the animal, if known;**

16 **(3) The nature and extent of the suspected abuse or neglect; and**

17 **(4) Any other information that the person making the report believes may be**
18 **useful in establishing the existence of the suspected abuse or neglect or the identity of the**
19 **person causing the abuse or neglect.**

20 **3. Upon receiving a report of suspected abuse or neglect, MACA shall provide**
21 **the report to any duly-authorized law enforcement official and, if appropriate, a county**
22 **or municipal animal control officer or any Missouri peace officer standards and training**
23 **(POST)-certified or MACA-certified animal cruelty investigator.**

24 **4. Any person required to report animal abuse or neglect under this section shall**
25 **be immune from civil and criminal liability in connection with making any required**
26 **reports if the person acted in good faith when making such report.**

27 **5. Notwithstanding any provision of law to the contrary, any information**
28 **identifying a person who reports suspected animal abuse or neglect under this section**
29 **shall be confidential and shall not be deemed a public record and shall not be subject to**
30 **the provisions of section 109.180 or chapter 610.**

31 **6. No person required to make a report of animal abuse or neglect under this**
32 **section shall knowingly make a false report. The penalty for making a false report and**
33 **the defenses to prosecution shall be the same as under section 575.080.**

34 **7. If an agency or political subdivision of the state determines that an employee**
35 **who is a mandated reporter under this section has failed to make a report as required by**
36 **this section, the agency or political subdivision shall issue a written notice to such**
37 **employee that shall include a finding of facts in support of the failure to make a report**
38 **and an explanation of the reporting requirement. Such notice shall not be retained in a**
39 **permanent employment file and shall be retained in a separate file or database**
40 **maintained by the agency or political subdivision. Such notice shall be considered a**
41 **closed record under the provisions of chapter 610.**

42 **8. Any person required to make a report under this section who is subject to**
43 **professional licensure and who fails to make a report as required by this section shall be**
44 **subject to discipline by his or her respective licensing board as follows:**

45 **(1) For the first instance of a failure to report, the licensing board shall issue a**
46 **written notice to such employee that shall include a finding of facts in support of the**
47 **failure to make a report and an explanation of the reporting requirement;**

48 **(2) For a second instance of a failure to report, the licensing board shall impose a**
49 **fine of one hundred dollars; and**

50 **(3) For a third and each subsequent instance of a failure to report, the licensing**
51 **board shall impose a fine of five hundred dollars.**

52 **9. As used in this section, the term "animal" means dogs, cats, rabbits, and**
53 **birds.**

273.415. 1. All persons employed or serving as animal control officers or animal
2 **humane investigators who have direct contact with animals shall be required to**
3 **complete at least one and one-half hour of training within the first sixty days of**
4 **employment. The training shall include the following:**

5 **(1) Requirements to report child abuse or neglect under section 210.115 or**
6 **eligible person abuse or neglect under section 192.2405 and the penalties associated with**
7 **failure to report such abuse or neglect;**

- 8 **(2) How to identify child or eligible person abuse or neglect;**
9 **(3) How to make a report of child or eligible person abuse or neglect; and**
10 **(4) The relationship between child, eligible adult, and animal abuse or neglect.**

11 **2. The children's division and the department of health and senior services, in**
12 **consultation with animal welfare associations, shall develop or adapt and use available**
13 **training materials for the training required under this section. Persons required to**
14 **complete training under this section shall be provided with opportunities to do so during**
15 **regular working hours.**

16 **3. As used in this section, the following terms shall mean:**

- 17 **(1) "Animal", dogs, cats, rabbits, and birds;**
18 **(2) "Animal humane investigator", a duly-authorized county or municipal**
19 **animal control officer or any Missouri peace officer standards and training (POST)-**
20 **certified or Missouri Animal Control Association (MACA)-certified animal cruelty**
21 **investigator;**
22 **(3) "Animal welfare association", the same meaning as in section 192.2510.**

578.006. 1. A person commits the offense of making a malicious false report of
2 **animal abuse if:**

- 3 **(1) The person purposely makes a report to a law enforcement agency or an**
4 **applicable government agency alleging the abuse of any animal in a manner punishable**
5 **under section 578.012;**
6 **(2) The person knows that such a report is false;**
7 **(3) The person makes the report with the purpose of disrupting, harassing,**
8 **causing a monetary loss to, or disturbing the peace of the owner of the animal; and**
9 **(4) Such report causes a disruption, harassment, monetary loss, or disturbance**
10 **of the owner of the animal.**

11 **2. The offense of making a malicious false report of animal abuse is a class C**
12 **misdemeanor.**

13 **3. It shall be an absolute defense for a prosecution of the offense of making a**
14 **malicious false report of animal abuse if the reporting party reported an incident of**
15 **animal abuse out of a good faith, reasonable belief that an animal was being abused.**
16 **The defendant shall have the burden of injecting this defense under this subsection. If a**
17 **defendant asserts that his or her report of animal abuse was made from a good faith,**
18 **reasonable belief that an animal was being abused, the state shall have the burden to**
19 **prove beyond a reasonable doubt that the defendant did not have a good faith,**
20 **reasonable belief that such a report was true.**

578.012. 1. A person commits the offense of animal abuse if he or she:

2 (1) Intentionally or purposely kills an animal in any manner not allowed by or
3 expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;

4 (2) Purposely or intentionally causes injury or suffering to an animal; or

5 (3) Having ownership or custody of an animal knowingly fails to provide adequate
6 care which results in substantial harm to the animal.

7 2. Animal abuse is a class A misdemeanor, unless the defendant has previously been
8 found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of
9 this section is the result of torture [~~or~~], mutilation [~~consciously~~], **or starvation knowingly**
10 inflicted while the animal was alive, in which case it is a class E felony.

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