

FIRST REGULAR SESSION

SENATE BILL NO. 464

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 19, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2202S.011

AN ACT

To repeal sections 135.341, 210.001, 210.110, 455.230, and 492.304, RSMo, and to enact in lieu thereof six new sections relating to child protection.

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

Section A. Sections 135.341, 210.001, 210.110, 455.230, and 492.304, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 135.341, 210.001, 210.110, 210.142, 455.230, and 492.304, to read as follows:

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

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care
19 center;

20 (8) "Tax liability", the tax due under chapter 143 other than taxes
21 withheld under sections 143.191 to 143.265.

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

34 3. The cumulative amount of the tax credits redeemed shall not exceed
35 one million dollars in any tax year. The amount available shall be equally
36 divided among the three qualified agencies: CASA, child advocacy centers, or
37 crisis care centers, to be used towards tax credits issued. In the event tax credits
38 claimed under one agency do not total the allocated amount for that agency, the
39 unused portion for that agency will be made available to the remaining agencies
40 equally. In the event the total amount of tax credits claimed for any one agency
41 exceeds the amount available for that agency, the amount redeemed shall and
42 will be apportioned equally to all eligible taxpayers claiming the credit under that
43 agency.

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

54 tax return.

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

59 6. Tax credits may be assigned, transferred or sold.

60 7. (1) In the event a credit denial, due to lack of available funds, causes
61 a balance-due notice to be generated by the department of revenue, or any other
62 redeeming agency, the taxpayer will not be held liable for any penalty or interest,
63 provided the balance is paid, or approved payment arrangements have been
64 made, within sixty days from the notice of denial.

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

68 8. The department may promulgate such rules or regulations as are
69 necessary to administer the provisions of this section. Any rule or portion of a
70 rule, as that term is defined in section 536.010, that is created under the
71 authority delegated in this section shall become effective only if it complies with
72 and is subject to all of the provisions of chapter 536 and, if applicable, section
73 536.028. This section and chapter 536 are nonseverable and if any of the powers
74 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
76 unconstitutional, then the grant of rulemaking authority and any rule proposed
77 or adopted after August 28, 2013, 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
80 March 29, 2013, and shall expire on December 31, 2019, unless reauthorized by
81 the general assembly; and

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

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

89 10. Beginning on March 29, 2013, any verified contribution to a qualified

90 agency made on or after January 1, 2013, shall be eligible for tax credits as
91 provided by this section.

210.001. 1. The department of social services shall address the needs of
2 homeless, dependent and neglected children in the supervision and custody of the
3 children's division and to their families-in-conflict by:

4 (1) Serving children and families as a unit in the least restrictive setting
5 available and in close proximity to the family home, consistent with the best
6 interests and special needs of the child;

7 (2) Insuring that appropriate social services are provided to the family
8 unit both prior to the removal of the child from the home and after family
9 reunification;

10 (3) Developing and implementing preventive and early intervention social
11 services which have demonstrated the ability to delay or reduce the need for
12 out-of-home placements and ameliorate problems before they become chronic.

13 2. The department of social services shall fund only regional child
14 **[assessment] advocacy** centers known as:

- 15 (1) The St. Louis City child **[assessment] advocacy** center;
- 16 (2) The St. Louis County child **[assessment] advocacy** center;
- 17 (3) The Jackson County child **[assessment] advocacy** center;
- 18 (4) The Buchanan County child **[assessment] advocacy** center;
- 19 (5) The Greene County child **[assessment] advocacy** center;
- 20 (6) The Boone County child **[assessment] advocacy** center;
- 21 (7) The Joplin child **[assessment] advocacy** center;
- 22 (8) The St. Charles County child **[assessment] advocacy** center;
- 23 (9) The Jefferson County child **[assessment] advocacy** center;
- 24 (10) The Pettis County child **[assessment] advocacy** center;
- 25 (11) The southeast Missouri child **[assessment] advocacy** center;
- 26 (12) The Camden County child **[assessment] advocacy** center;
- 27 (13) The Clay-Platte County child **[assessment] advocacy** center;
- 28 (14) The Lakes Area child **[assessment] advocacy** center;
- 29 (15) The Ozark Foothills child **[assessment] advocacy** center; and
- 30 (16) The North Central Missouri child **[assessment] advocacy** center;

31 provided the other approved **[assessment] advocacy** centers included in
32 subdivisions (1) to (14) of this subsection submit to the department of social
33 services a modified funding formula for all approved child **[assessment]**
34 **advocacy** centers, which would require no additional state funding.

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

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse
4 inflicted on a child other than by accidental means by those responsible for the
5 child's care, custody, and control, except that discipline including spanking,
6 administered in a reasonable manner, shall not be construed to be abuse;

7 (2) "Assessment and treatment services for children under ten years old",
8 an approach to be developed by the children's division which will recognize and
9 treat the specific needs of at-risk and abused or neglected children under the age
10 of ten. The developmental and medical assessment may be a broad physical,
11 developmental, and mental health screening to be completed within thirty days
12 of a child's entry into custody and every six months thereafter as long as the child
13 remains in care. Screenings may be offered at a centralized location and include,
14 at a minimum, the following:

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

17 (b) Developmental, behavioral, and emotional screening in addition to
18 early periodic screening, diagnosis, and treatment services, including a core set
19 of standardized and recognized instruments as well as interviews with the child
20 and appropriate caregivers. The screening battery may be performed by a
21 licensed mental health professional familiar with the effects of abuse and neglect
22 on young children, who will then serve as the liaison between all service
23 providers in ensuring that needed services are provided. Such treatment services
24 may include in-home services, out-of-home placement, intensive twenty-four-hour
25 treatment services, family counseling, parenting training and other best
26 practices. Children whose screenings indicate an area of concern may complete
27 a comprehensive, in-depth health, psychodiagnostic, or developmental assessment
28 within sixty days of entry into custody;

29 (3) "Central registry", a registry of persons where the division has found
30 probable cause to believe prior to August 28, 2004, or by a preponderance of the
31 evidence after August 28, 2004, or a court has substantiated through court
32 adjudication that the individual has committed child abuse or neglect or the
33 person has pled guilty or has been found guilty of a crime pursuant to section
34 565.020, 565.021, 565.023, 565.024 or 565.050 if the victim is a child less than
35 eighteen years of age, section 566.030 or 566.060 if the victim is a child less than
36 eighteen years of age, or other crime pursuant to chapter 566 if the victim is a

37 child less than eighteen years of age and the perpetrator is twenty-one years of
38 age or older, section 567.050 if the victim is a child less than eighteen years of
39 age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090,
40 section 573.025 or 573.035, or an attempt to commit any such crimes. Any
41 persons placed on the registry prior to August 28, 2004, shall remain on the
42 registry for the duration of time required by section 210.152;

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

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

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

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

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

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

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

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

73 (12) "Multidisciplinary investigation team", a team used to
74 investigate child abuse and provide protective or preventive social
75 services including the services of law enforcement, children's division,
76 the prosecuting attorney, the child advocacy center, the juvenile
77 center, the medical provider, the mental health provider, and other
78 agencies with a common mission of achieving victim safety and
79 perpetrator accountability and who have entered into an agreement to
80 maintain confidentiality as required by law, both public and private;

81 (13) "Neglect", failure to provide, by those responsible for the care,
82 custody, and control of the child, the proper or necessary support, education as
83 required by law, nutrition or medical, surgical, or any other care necessary for the
84 child's well-being;

85 [(13)] (14) "Preponderance of the evidence", that degree of evidence that
86 is of greater weight or more convincing than the evidence which is offered in
87 opposition to it or evidence which as a whole shows the fact to be proved to be
88 more probable than not;

89 [(14)] (15) "Probable cause", available facts when viewed in the light of
90 surrounding circumstances which would cause a reasonable person to believe a
91 child was abused or neglected;

92 [(15)] (16) "Report", the communication of an allegation of child abuse
93 or neglect to the division pursuant to section 210.115;

94 [(16)] (17) "Those responsible for the care, custody, and control of the
95 child", those included but not limited to the parents or guardian of a child, other
96 members of the child's household, or those exercising supervision over a child for
97 any part of a twenty-four-hour day. Those responsible for the care, custody and
98 control shall also include any adult who, based on relationship to the parents of
99 the child, members of the child's household or the family, has access to the child.

210.142. 1. **Notwithstanding Missouri supreme court rule 25.03**
2 **or any other provision of law to the contrary, no health care provider,**
3 **child advocacy center as defined in section 135.341, or**
4 **multidisciplinary investigation team as defined in section 210.110, shall**
5 **provide copies to any person or entity of visual or aural recordings or**
6 **photographs of a minor, or his or her body, who is alleged to be the**
7 **victim of child abuse unless ordered by a court of competent**
8 **jurisdiction as provided in subsections 2 and 3 of this section, except**
9 **that members of the multidisciplinary investigation team may share the**

10 visual or aural recordings of the child's statements with other members
11 of the multidisciplinary investigation team for the purposes of trial
12 preparation or under subsection 5 of this section and the office of the
13 child advocate as a part of a review under section 37.710.

14 2. Notwithstanding any other provisions of law to the contrary,
15 no court shall order the copying of visual or aural recordings or
16 photographs described in subsection 1 of this section unless it does so
17 after a hearing has been held, and notice to the parties given, at which
18 the health care provider, child advocacy center, or multidisciplinary
19 investigation team member may present and offer objections or
20 suggestions for the court. If good cause has been shown, the court may
21 order the health care provider, child advocacy center, or
22 multidisciplinary investigation team member to copy visual or aural
23 recordings or photographs described in subsection 1 of this section to
24 the moving party's counsel of record or specified experts who have
25 been duly qualified by the court in the evaluation or medical diagnosis
26 of child abuse.

27 3. If a court orders the copying of visual or aural recordings or
28 photographs as described in subsection 1 of this section, the order
29 shall:

30 (1) Be limited solely to the use of the recordings or photographs
31 for the purposes of trial preparation;

32 (2) Prohibit further copying, reproduction, or dissemination of
33 the recordings or photographs;

34 (3) Prohibit the moving party's counsel of record or specified
35 experts from allowing any other person copies of the recordings or
36 photographs without a court order; and

37 (4) Require the return of the copies to the health care provider,
38 child advocacy center, or multidisciplinary investigation team member
39 upon the end of the counsel or expert's involvement in the relevant
40 case or the final disposition of the case, unless the copies have become
41 part of the official court record, whichever comes first.

42 4. Nothing in this section shall prohibit the court or
43 multidisciplinary members from granting access to viewing, but not
44 copying, the visual or aural recordings as part of a pending related
45 matter in front of the court involving an alleged victim of child abuse.

46 5. Upon disposition of all pending matters involving the alleged

47 **victim of child abuse, multidisciplinary investigation team members**
48 **may grant access to the visual or aural recordings of the child's**
49 **statements for training and educational purposes upon the execution**
50 **of a written confidentiality agreement.**

455.230. 1. A shelter for victims of domestic violence that receives funds
2 pursuant to sections 455.200 to 455.230 shall file an annual report with the
3 designated authority of the county, or of the city not within a county, in which it
4 is located, on or before the thirty-first day of March of the year following the year
5 in which funds were received. The annual report shall include statistics on the
6 number of persons served by the shelter, the relationship of the victim of
7 domestic violence to the abuser, the number of referrals made for medical,
8 psychological, financial, educational, vocational, child care services or legal
9 services, and shall include the results of an independent audit. No information
10 contained in the report shall identify any person served by the shelter or enable
11 any person to determine the identity of any such person. Any information
12 contained in the report that is directly related to advocacy services provided by
13 the shelter shall not be construed as a violation of section 455.220. Any shelter
14 for victims of domestic violence as defined in this chapter may apply to the
15 department of public safety for a grant to provide funds for the renovation,
16 construction and improvement of such shelter on a 75/25 state/local match rate,
17 subject to appropriation.

18 2. The designated authority shall compile the reports filed pursuant to
19 subsection 1 of this section annually.

20 3. In addition to any shelter funded under said section, subject to
21 appropriation, the department of social services shall fund a child [assessment]
22 **advocacy** center to serve the needs of children from families in conflict and from
23 domestic violence to be located in any county of the first classification without a
24 charter form of government with a population of more than one hundred sixty
25 thousand but less than two hundred thousand.

492.304. 1. In addition to the admissibility of a statement under the
2 provisions of section 492.303, the visual and aural recording of a verbal or
3 nonverbal statement of a child when under the age of fourteen who is alleged to
4 be a victim of an offense under the provisions of chapter 565, 566 or 568 is
5 admissible into evidence if:

6 (1) No attorney for either party was present when the statement was
7 made; except that, for any statement taken at a state-funded child [assessment]

8 **advocacy** center as provided for in subsection 2 of section 210.001, an attorney
9 representing the state of Missouri in a criminal investigation may, as a member
10 of a multidisciplinary investigation team, observe the taking of such statement,
11 but such attorney shall not be present in the room where the interview is being
12 conducted;

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

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

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

20 (5) Every voice on the recording is identified;

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

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

26 2. If the child does not testify at the proceeding, the visual and aural
27 recording of a verbal or nonverbal statement of the child shall not be admissible
28 under this section unless the recording qualifies for admission under section
29 491.075.

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

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

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