

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1149
98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, May 4, 2015, with recommendation that the Senate Committee Substitute do pass.

2462S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 219.011, 219.021, and 219.091, RSMo, and to enact in lieu thereof four new sections relating to the division of youth services.

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

Section A. Sections 219.011, 219.021, and 219.091, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 219.011,
3 219.021, 219.091, and 219.095, to read as follows:

219.011. 1. As used in [sections 219.011 to 219.086] **this chapter**, unless
2 the context clearly indicates otherwise, the following terms mean:

3 (1) "Aftercare supervision", treatment and control of children in the
4 community under the jurisdiction of the division;

5 (2) "Board", the state advisory board of youth services;

6 (3) "Child", a person under eighteen years of age;

7 (4) "Commit", to transfer legal and physical custody;

8 (5) "Community based treatment", a treatment program which is locally
9 or regionally based;

10 (6) "Department", the department of social services;

11 (7) "Director", the director of the division of youth services;

12 (8) "Division", the division of youth services (**DYS**);

13 (9) **"Youth", a person under twenty-one years of age committed**
14 **to the custody of the division of youth services.**

15 2. When consistent with the intent of [sections 219.011 to 219.086] **this**
16 **chapter**, the singular includes the plural, the plural the singular and the
17 masculine the feminine.

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

219.021. 1. Except as provided in subsections 2 and 3 of this section, any
2 child may be committed to the custody of the division when the juvenile court
3 determines a suitable community-based treatment service does not exist, or has
4 proven ineffective; and when the child is adjudicated pursuant to the provisions
5 of subdivision (3) of subsection 1 of section 211.031 or when the child is
6 adjudicated pursuant to subdivision (2) of subsection 1 of section 211.031 and is
7 currently under court supervision for adjudication under subdivision (2) or (3) of
8 subsection 1 of section 211.031. The division shall not keep any **[child] youth**
9 beyond his eighteenth birth date, except upon petition and a showing of just
10 cause in which case the division may maintain custody until the **[child's] youth's**
11 twenty-first birth date. Notwithstanding any other provision of law to the
12 contrary, the committing court shall review the treatment plan to be provided by
13 the division. The division shall notify the court of original jurisdiction from
14 which the child was committed at least three weeks prior to the child's release to
15 aftercare supervision. The notification shall include a summary of the treatment
16 plan and progress of the child that has resulted in the planned release. The court
17 may formally object to the director of the division in writing, stating its reasons
18 in opposition to the release. The director shall review the court's objection in
19 consideration of its final approval for release. The court's written objection shall
20 be made within a one-week period after it receives notification of the division's
21 planned release; otherwise the division may assume court agreement with the
22 release. The division director's written response to the court shall occur within
23 five working days of **service of** the court's objection and preferably prior to the
24 release of the child. The division shall not place a child directly into a precare
25 setting immediately upon commitment from the court until it advises the court
26 of such placement.

27 2. No child who has been diagnosed as having a mental disease or a
28 communicable or contagious disease shall be committed to the division; except the
29 division may, by regulation, when **[facilities] services** for the proper care and
30 treatment of persons having such diseases are available at any of the facilities
31 under its control, authorize the commitment of children having such diseases to
32 it for treatment **[and training]** in such institution. Notice of any such regulation
33 shall be promptly mailed to the judges and juvenile officers of all courts having
34 jurisdiction of cases involving children.

35 3. When a child has been committed to the division, the division shall
36 forthwith examine the individual and investigate all pertinent circumstances of

37 his background for the purpose of facilitating the placement **and treatment** of
38 the child in the most appropriate program or residential facility to assure the
39 public safety and the rehabilitation of the child; except that, no child committed
40 under the provisions of subdivision (2) of subsection 1 of section 211.031 may be
41 placed in the [regional] **residential** facilities [at the W. E. Sears Youth Center
42 at Poplar Bluff or the Hogan Street Regional Youth Center at St. Louis]
43 **designated by the division as a maximum security facility**, unless the
44 juvenile is subsequently adjudicated under subdivision (3) of subsection 1 of
45 section 211.031.

46 4. The division may transfer any child under its jurisdiction to any other
47 institution for children if, after careful study of the child's needs, it is the
48 judgment of the division that the transfer should be effected. If the division
49 determines that the child requires treatment by another state agency, it may
50 transfer the physical custody of the child to that agency, and that agency shall
51 accept the child if the services are available by that agency.

52 5. The division shall make periodic reexaminations of all children
53 committed to its custody for the purpose of determining whether existing
54 dispositions should be modified or continued. Reexamination shall include a
55 study of all current circumstances of such child's personal and family situation
56 and an evaluation of the progress made by such child since the previous
57 study. Reexamination shall be conducted as frequently as the division deems
58 necessary, but in any event, with respect to each such child, at intervals not to
59 exceed six months. Reports of the results of such examinations shall be sent to
60 the child's committing court and to his parents or guardian.

61 6. Failure of the division to examine a child committed to it or to
62 reexamine him within six months of a previous examination shall not of itself
63 entitle the child to be discharged from the custody of the division but shall entitle
64 the child, his parent, guardian, or agency to which the child may be placed by the
65 division to petition for review as provided in section 219.051.

66 7. The division is hereby authorized to establish, build, repair, maintain,
67 and operate, from funds appropriated or approved by the legislature for these
68 purposes, facilities and programs necessary to implement the provisions of
69 [sections 219.011 to 219.086] **this chapter**. Such facilities or programs may
70 include, but not be limited to, the establishment and operation of training schools,
71 maximum security facilities, [park camps, regional] **moderate care** facilities,
72 group homes, **day treatment programs**, family foster homes, aftercare,

73 counseling services, educational services, and such other services as may be
74 required to meet the needs of children committed to it. The division may
75 terminate any facility or program no longer needed to meet the needs of children.

76 8. The division may institute day release programs for children committed
77 to it. The division may arrange with local schools, public or private agencies, or
78 persons approved by the division for the release of children committed to the
79 division on a daily basis to the custody of such schools, agencies, or persons for
80 participation in programs.

81 9. [The division may establish and offer on-the-job vocational training to
82 develop work habits and equip children committed to it with marketable
83 skills. Such training shall not exceed eight hours per day. The division may
84 provide for the payment of reasonable wages or allowances for work or tasks
85 performed by a child committed to the division. For any work performed by a
86 child committed to the division in any state park or park work camp, the state
87 park board is hereby authorized, out of appropriations made to it, to pay wages
88 not in excess of fifteen dollars per month to each child. All funds paid to the
89 child in accordance with this section shall be deposited with the director and not
90 less than one-half of this amount shall be paid monthly to the child. The balance
91 of such funds shall be held in trust by the director for payment to the child at the
92 time of his release from a facility.

93 10.] The division shall make all reasonable efforts to ensure that any
94 outstanding judgment entered in accordance with section 211.185 or any
95 outstanding assessments ordered in accordance with section 211.181 be paid
96 while a child is in the care, custody or control of the division.

219.091. 1. As used in this section, the term "department" means:

- 2 (1) The office of administration;
- 3 (2) The department of agriculture;
- 4 (3) The department of conservation;
- 5 (4) The department of economic development;
- 6 (5) The department of elementary and secondary education;
- 7 (6) The department of health and senior services;
- 8 (7) The department of higher education;
- 9 (8) The department of transportation;
- 10 (9) The department of insurance, financial institutions and professional
11 registration;
- 12 (10) The department of labor and industrial relations;

- 13 (11) The department of mental health;
14 (12) The department of natural resources;
15 (13) The department of public safety;
16 (14) The department of revenue; and
17 (15) The department of social services.

18 2. The division of youth services [shall] **may** develop and establish a
19 community work program whereby [offenders from age fourteen to eighteen]
20 **youth** committed to the custody of the division may be employed in projects
21 developed and established by any department.

22 3. The director or chief administrative officer of any department may
23 request that the director of the division of youth services choose suitable
24 [offenders] **youth** for employment in work projects developed by the
25 division. Such projects shall be designed and approved by the director or chief
26 administrative officer of any department and approved by the director of the
27 division of youth services.

28 4. The division of youth services shall retain custody, supervision and
29 control of any [offender] **youth** employed in a work project developed pursuant
30 to this section. Any work [crew] **group** employed in a work project developed
31 pursuant to this section shall consist of not more than [eleven offenders]
32 **thirteen youth**.

33 5. No offender shall be employed in a work project developed pursuant to
34 this section if the offender has been convicted of a violent crime or whose conduct
35 while under the control of the division of youth services suggests a propensity
36 toward violence. As used in this subsection, the term "violent crime" means any
37 crime which, in the determination of the director of the division of youth services,
38 involves violence or the threat of violence.

39 6. The department proposing the work project shall supply all plans, tools
40 and equipment necessary for the completion of work projects developed pursuant
41 to this section.

42 7. The department proposing the work project shall supply [crew leaders]
43 **staff** to direct work [crews] **groups** and supervise the completion of work
44 projects. Such [crew leaders] **staff** shall be employees of the department
45 proposing the work project and shall receive from such department and the
46 division of youth services [at least twenty hours of] **appropriate** training per
47 year, which shall be designed to instruct the [crew leaders] **staff** in the skills
48 necessary to perform their duties.

49 8. The department proposing the work project and the division of youth
50 services may promulgate rules to effectuate the purposes of this section pursuant
51 to chapter 536 and section 217.040.

52 **9. For any work performed by a youth committed to the division**
53 **in any state park, the state park board is hereby authorized, out of**
54 **appropriations made to it, to pay wages.**

55 **10. The division may establish and offer on-the-job vocational**
56 **training to develop work habits and equip youth committed to it with**
57 **marketable skills. The division may provide for the payment of**
58 **reasonable wages for work or tasks performed by a youth committed to**
59 **the division. All payments made to or on behalf of the youth under this**
60 **subsection shall be property of the youth; however, the division may**
61 **place such restrictions on the youth's access to the funds as the**
62 **division determines appropriate in the best interests of the youth and**
63 **to assure security in the division's facilities. All funds paid to or on**
64 **behalf of the youth in accordance with this subsection shall be**
65 **deposited in the DYS trust fund established in section 219.095.**

219.095. 1. There is hereby created a special class of trust funds
2 **to be known as the "DYS Trust Fund" for depositing wages earned by a**
3 **youth or for other funds provided for the use or benefit of the**
4 **youth. These funds will be established for each facility where youth**
5 **are located in the custody of the DYS throughout the state. The division**
6 **shall deposit money in a DYS trust fund with a financial**
7 **institution. Any earnings attributable to the money in the account of**
8 **a youth shall be credited to that youth's DYS trust fund. The division**
9 **will establish regulations regarding the creation and administration of**
10 **accounts. Moneys in these special trust funds shall not be deemed to**
11 **be state funds. Moneys deposited in these funds shall be used only for**
12 **the purposes specified by federal or state law, or regulation of the**
13 **division. Notwithstanding the provisions of section 33.080 to the**
14 **contrary, moneys in these funds shall not be transferred to general**
15 **revenue at the end of each biennium. Any funds not expended by or on**
16 **behalf of the youth before the youth's release from DYS residential care**
17 **shall be paid to the youth upon release from DYS residential care.**

18 **2. The division shall establish by regulation a program for youth**
19 **to access funds, as deemed appropriate by the division, in the DYS trust**
20 **fund for reasonable purposes while the youth is in DYS residential**

21 care. The program shall include training for youth on wise money
22 management, maintaining personal financial accounts, and saving
23 money for use after discharge from DYS residential care.

24 3. There is hereby created a special trust fund to be known as
25 the "DYS Child Benefits Fund" within the state treasury for depositing
26 of payments from the social security administration to youth in DYS
27 custody. Moneys in this special trust fund shall not be deemed to be
28 state funds. Moneys deposited in this fund shall be used only for the
29 purposes specified by federal or state law, or regulation of the division.
30 The state treasurer shall be custodian of the fund and may approve
31 disbursements from the fund in accordance with sections 30.170 and
32 30.180, RSMo. The state treasurer shall invest moneys in the fund in
33 the same manner as other funds are invested. Any interest and moneys
34 earned on such investments shall be credited to the
35 fund. Notwithstanding the provisions of section 33.080 to the contrary,
36 moneys in the fund shall not be transferred to general revenue at the
37 end of each biennium. Any funds not expended by or on behalf of the
38 youth before release from DYS residential care shall be distributed as
39 required by federal law.

40 4. The division may accept an appointment to serve as
41 representative payee or fiduciary, or in a similar capacity for payments
42 to a youth from the social security administration or under any public
43 or private benefit arrangement. Money so received shall be governed
44 by this section unless otherwise provided by law.

45 5. Any money received by the division under this section on
46 behalf of a youth shall be deposited in either a DYS trust fund or the
47 DYS child benefits fund and accounted for in the name of the youth or
48 as representative payee of the youth. The division shall by rule
49 adopted under chapter 536 establish procedures for the use and
50 accounting of the money and the protection of the money against theft,
51 loss, or misappropriation. The rules promulgated by the division shall
52 comply with all federal requirements to be a representative payee of
53 the youth.

54 6. The division may accept funds which a parent, guardian or
55 other person wishes to provide for the use or benefit of the youth. The
56 funds shall be deposited in a DYS trust fund in the name of the youth
57 at the DYS location where the youth resides. The use of such funds

58 shall be governed by this section.

59 7. Each youth shall be furnished annually with a statement
60 listing every transaction involving funds which have been deposited
61 with the division on the youth's behalf, to include all receipts and
62 disbursements.

63 8. The division shall use all proper diligence to promptly
64 disburse any balance of money accumulated in the youth's account in
65 the manner required by law when the youth is released from DYS
66 residential care or upon death of the youth. When the youth is
67 deceased the balance shall be disbursed according to the procedures
68 established by law for descent and distribution or, in the case of
69 moneys received from the social security administration as
70 representative payee, disbursed as required by federal law. If, after the
71 division has diligently used such methods and means as considered
72 reasonable to refund such funds, there shall remain any money, the
73 owner of which is unknown to the division, or if known, cannot be
74 located by the division, in each and every such instance such money
75 shall be reported pursuant to sections 447.500 to 447.595.

76 9. Within five years after money has been paid into the state
77 treasury, any person who appears and wishes to claim the money may
78 file a petition in the circuit court of Cole County, Missouri, stating the
79 nature of the claim and requesting that such money be paid to such
80 person. A copy of the petition shall be provided to the director of the
81 department of social services who shall file an answer to the same. The
82 court shall proceed to examine the claim and the allegations and proof,
83 and if it finds that such person is entitled to any money so paid into the
84 state treasury, it shall order the commissioner of administration to
85 issue a warrant on the state treasurer for the amount of such claim, but
86 without interest or costs. A certified copy of the order shall be
87 sufficient voucher for issuing a warrant; provided, that either party
88 may appeal from the decision of the court in the same manner as
89 provided by law in other civil actions.

90 10. All moneys remaining unclaimed for a period of five years
91 that have been paid into the state treasury under the provisions of this
92 section after remaining there unclaimed for five years shall escheat and
93 vest absolutely in the state and be credited to the state treasury, and
94 all persons shall be forever barred and precluded from setting up title

95 or claim to any such funds.

96 11. Nothing in this section shall be deemed to apply to funds
97 regularly due the state of Missouri for the support and maintenance of
98 youth in the care and custody of the division or collected by the state
99 of Missouri as reimbursement for state funds expended on behalf of the
100 youth.

✓

Unofficial

Bill

Copy