

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 597
90TH GENERAL ASSEMBLY

Reported from the Committee on Children, Youth and Families, May 1, 2000, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 597 Do Pass.

ANNE C. WALKER, Chief Clerk

2916L.17C

AN ACT

To repeal sections 193.255, 210.110, 210.536, 453.121 and 568.050, RSMo 1994, and sections 193.125, 208.029, 210.115, 453.005, 453.030, 453.073, 453.110, 568.030 and 568.045, RSMo Supp. 1999, relating to services for children, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 193.255, 210.110, 210.536, 453.121 and 568.050, RSMo 1994, and sections 193.125, 208.029, 210.115, 453.005, 453.030, 453.073, 453.110, 568.030 and 568.045, RSMo Supp. 1999, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 67.1785, 173.270, 191.975, 193.125, 193.255, 208.029, 210.110, 210.115, 210.536, 210.950, 453.005, 453.030, 453.073, 453.110, 453.121, 476.777, 568.030, 568.045 and 568.050, to read as follows:

67.1785. Each county in the state shall have the authority to create a children's services council to conduct an assessment of the needs of children in the county and provide grants for services to address those needs. Any children's services council established pursuant to this section shall constitute a body politic and corporate with taxing power and shall have the duties, privileges, immunities, rights, liabilities and disabilities of a public body politic and corporate.

173.270. 1. Subject to appropriations, the coordinating board for higher education shall utilize the scholarships for foster children trust fund created in subsection 2 of this section to provide college scholarships to any former foster child who has subsequently been adopted or had a permanent legal guardian appointed after age thirteen. Such scholarship shall be equal to the amount that such foster child would have received from the federal Pell grant program if he or she had remained a ward of the state.

2. There is hereby created in the state treasury a fund to be administered by the department of higher education to be known as the "Scholarships for Foster Children Trust Fund". The fund shall consist of all moneys which may be appropriated to it by the general assembly, gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the fund shall be used for scholarships to former foster children

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

pursuant to subsection 1 of this section. All earnings resulting from the investment of moneys in the scholarships for foster children trust fund shall be credited to the fund. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. In addition to the moneys in the scholarships for foster children trust fund, the department of higher education, in consultation with the department of social services, may also utilize independent living funding pursuant to the federal Foster Care Independence Act for scholarships granted pursuant to subsection 1 of this section.

191.975. 1. This section shall be known and may be cited as the "Adoption Awareness Law".

2. The division of maternal, child and family health in the department of health, in conjunction with the department of social services and with the office of women's health in the department of health, shall be responsible for:

(1) Collecting resource materials in order to educate communities about foster care and adoption; and

(2) Establishing and promoting education materials which may include a video, brochures or public relations campaigns about adoption and foster care for public use. The material shall include, but not be limited to, information about:

- (a) Adoption and foster care;
- (b) Adoption and foster care procedures;
- (c) Methods of payment or reimbursement;
- (d) Protection for and rights, or lack thereof, of the birth parents prior to and following the adoption;
- (e) Location of adoption and foster care agencies; and
- (f) Discussion of various state health programs for women and children, including medical assistance programs, as well as income assistance programs.

Such materials shall be made available by the department of health to the public. The department of health shall make materials available to the department of social services, public health facilities, family planning clinics, child-placing agencies, as defined in section 210.481, RSMo, and private physicians. Upon request of abortion facilities, as defined in section 188.015, RSMo, materials shall be provided to them. Materials may be made available to the public through the department of health's Internet web site.

3. The duties prescribed in this section shall be subject to appropriations by the general assembly.

4. The division shall promulgate rules and regulations for the implementation of this section in accordance with chapter 536, RSMo.

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state, the court shall require the preparation of a certificate of decree of adoption on a form as prescribed and furnished by the state registrar. The certificate of decree of adoption shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted, and shall provide information necessary to establish a new certificate of birth of the person adopted and shall identify the court and county of the adoption and be certified by the clerk of the court. The state registrar shall file the original certificate of birth with the certificate of decree of adoption and such file may be opened by the state registrar only upon receipt of a certified copy

of an order as decreed by the court of adoption or pursuant to subsection 2 of this section.

2. Upon receipt of a written application to the state registrar, any adopted person eighteen years of age or older born in the state of Missouri shall be issued a certified copy of his or her unaltered, original and unamended certificate of birth in the custody of the state registrar, with procedures, filing fees and waiting periods identical to those imposed upon nonadopted citizens of the state of Missouri. Nothing in this subsection shall be construed as violating the provisions of section 453.121, RSMo.

3. Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The social welfare agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report. The provision of such information shall be prerequisite to the issuance of a final decree in the matter by the court.

[3.] 4. Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

[4.] 5. Not later than the fifteenth day of each calendar month or more frequently as directed by the state registrar the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulment of adoption and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

[5.] 6. When the state registrar shall receive a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, he or she shall forward such report to the state registrar in the state of birth.

[6.] 7. In a case of adoption in this state of a person not born in any state, territory or possession of the United States or country not covered by interchange agreements, the state registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in the name of the adopted person, as decreed by the court. The state registrar shall file the certificate of the decree of adoption, and such documents may be opened by the state registrar only by an order of court or written application to the state registrar by adoptees eighteen years of age or older as provided in subsection 2 of this section. The birth certificate prepared [under] pursuant to this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in section 193.235.

[7.] 8. The department, upon receipt of proof that a person has been adopted by a Missouri resident pursuant to laws of countries other than the United States, shall prepare a birth certificate in the name of the adopted person as decreed by the court of such country. If such proof contains the surname of either adoptive parent, the department of health shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of the name of the adopted person shall be made by a court of competent jurisdiction. The proof of adoption required by the department shall include a copy of the original birth certificate and adoption decree, an English translation of such birth certificate and adoption decree, and a copy of the approval of the immigration of the adopted person by the Immigration and Naturalization Service of the United States government which shows the child lawfully entered the United States. The authenticity of the translation of the birth certificate and adoption decree required by this subsection shall be sworn to by the translator in a notarized document. The state registrar shall

file such documents received by the department relating to such adoption and such documents may be opened by the state registrar only by an order of a court **or written application to the state registrar by adoptees eighteen years of age or older as provided in subsection 2 of this section**. A birth certificate pursuant to this subsection shall be issued upon request of one of the adoptive parents of such adopted person or upon request of the adopted person if of legal age. The birth certificate prepared pursuant to the provisions of this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

[8.] **9.** If no certificate of birth is on file for the person under twelve years of age who has been adopted, a belated certificate of birth shall be filed with the state registrar as provided in sections 193.005 to 193.325 before a new birth record is to be established as result of adoption. A new certificate is to be established on the basis of the adoption [under] **pursuant to** this section and shall be prepared on a standard certificate of live birth form.

[9.] **10.** If no certificate of birth has been filed for a person twelve years of age or older who has been adopted, a new birth certificate is to be established [under] **pursuant to** this section upon receipt of proof of adoption as required by the department. A new certificate shall be prepared in the name of the adopted person as decreed by the court, registering adopted parents' names. The new certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed in a sealed file and shall not be subject to inspection except upon an order of the court.

193.255. 1. The state registrar and other custodians of vital records authorized by the state registrar to issue certified copies of vital records upon receipt of application shall issue a certified copy of any vital record in [his] **the registrar's** custody or a part thereof to any applicant having a direct and tangible interest in the vital record, **including an adopted person eighteen years of age or older as provided for in section 193.125**. Each copy issued shall show the date of registration, and copies issued from records marked "Delayed" or "Amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar.

2. A certified copy of a vital record or any part thereof, issued in accordance with subsection 1 of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

3. The federal agency responsible for national vital statistics may be furnished such copies or data from the system of vital statistics as it may require for national statistics, provided such federal agency share in the cost of collecting, processing, and transmitting such data, and provided further that such data shall not be used for other than statistical purposes by the federal agency unless so authorized by the state registrar.

4. Federal, state, local and other public or private agencies may, upon request, be furnished copies or data of any other vital statistics not obtainable under subsection 1 of this section for statistical or administrative purposes upon such terms or conditions as may be prescribed by regulation, provided that such copies or data shall not be used for purposes other than those for which they were requested unless so authorized by the state registrar.

5. The state registrar may, by agreement, transmit copies of records and other reports required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. This agreement shall require that the copies be used for statistical and administrative purposes only, and the agreement shall further provide for the retention and disposition of such copies. Copies received by the department from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

6. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized herein or by regulations adopted hereunder.

208.029. 1. The division of family services in the department of social services shall establish the "Grandparents as Foster Parents Program". The grandparents as foster parents program recognizes that:

- (1) Raising a grandchild differs from when the grandparents raised their own children;
- (2) Caring for a grandchild often places additional financial, social and psychological strain on grandparents with fixed incomes;
- (3) Different parenting skills are necessary when raising a grandchild and many grandparents do not possess such skills, are not aware of how to obtain such skills and cannot afford access to the services necessary to obtain such skills;
- (4) Grandparents, like nonrelative foster parents, need a support structure, including counseling for the grandchild and caretaker, respite care and transportation assistance and child care;
- (5) The level of care provided by grandparents does not differ from nonrelative foster care, but reimbursement for such care is substantially less for grandparents; and
- (6) Grandparents are often unaware of the cash assistance alternatives to the federal TANF block grant funds which are available to support the grandchildren placed in their care.

2. A grandparent shall be eligible to participate in the grandparents as foster parents program if such grandparent:

- (1) Is [fifty] **forty-five** years of age or older;
- (2) Is the legal guardian of a grandchild placed in such grandparent's custody; and
- (3) Participates in the training available through the division pursuant to subsection 4 of this section.

3. If there are no grandparents of a child who are willing to participate in the grandparents as foster parents program, the division may include in the program any other close relative who becomes the legal guardian of the child or obtains legal custody of the child, as granted by a court of competent jurisdiction if such relative also meets the requirements of subdivisions (1) and (3) of subsection 2 of this section.

4. The grandparents as foster parents program shall:

- (1) Provide reimbursement based on the current foster care payment schedule to eligible grandparents, as defined in subsection 2 of this section, for the care of a grandchild;
- (2) Establish program requirements, including, but not limited to, participation in foster parent training, parenting skills training, childhood immunizations and other similar health screens;
- (3) Provide continuing counseling for the child and grandparent;
- (4) Provide support services, including, but not limited to, respite care, child care and transportation assistance;

(5) Provide Medicaid services to such child; and
(6) Provide ancillary services, such as child care, respite, transportation assistance and clothing allowances, but not direct financial payments to the participants in the program after such participants complete the training required in subdivision (2) of this subsection.

5. Funding for cash benefits and other assistance provided to eligible grandparents shall be made from the state maintenance of effort funds.

6. Grandparents who are either under [fifty] **forty-five** years of age, or are [fifty] **forty-five** years of age or older and refuse to participate in the training pursuant to subsection 2 of this section, may apply to the division for foster care reimbursement and assistance. Such cash and noncash assistance shall be funded through the TANF funds. Any work participation and time limit requirements pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, shall apply to all such persons.

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

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

(2) "Central registry", a registry of persons where the division has found probable cause to believe or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime [under] **pursuant to** section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime [under] **pursuant to** chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes;

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

(4) "Director", the director of the Missouri division of family services;

(5) "Division", the Missouri division of family services;

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

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

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

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

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

[(10)] (11) "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;

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

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, Christian Science practitioner, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

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

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees

of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation, shall in a timely manner notify the division of the child's death pursuant to this section and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

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

210.536. 1. The cost of foster care shall be paid by the division of family services pursuant to chapter 207, RSMo, except that the court shall evaluate the ability of parents to pay part or all of the cost for such care, and shall order such payment to the department of social services. **Beginning in the 2002 fiscal year, the reimbursement rate for the cost of foster care shall be incrementally increased over a three-year period until the reimbursement rate maintained by the division meets or exceeds the foster care rates established by the United States Department of Agriculture.**

2. The court may effectuate such order against any asset of the parent for failure to provide part or all of the cost of foster care according to the court order; provided further, that any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the recorder of deeds in the county in which the parent resides or in which the asset is located. The department of social services may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third party payment shall be paid directly to the department of social services.

210.950. 1. For purposes of this section, the following terms shall mean:

(1) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant at a hospital;

(2) "Relinquishing parent", the biological parent or person acting on his or her behalf who leaves a newborn infant at a hospital.

2. A relinquishing parent shall not be prosecuted for a violation of section 568.030, 568.045 or 568.050, RSMo, if:

(1) The relinquishing parent leaves his or her newborn child in the physical custody of an employee, agent or member of the staff of a hospital who is on duty in a paid or volunteer position;

(2) The newborn child is no more than thirty days old; and

(3) The newborn child has not been physically abused by such relinquishing parent.

3. The hospital may accept custody of the infant or child from the relinquishing parent and the hospital shall immediately notify the division of family services which will

then apply to the court for legal custody of the child.

4. A hospital that accepts custody of an infant or child pursuant to subsection 3 of this section is immune from civil, criminal and administrative liability for any act, with the exception of a reasonable standard of medical care, of commission or omission in connection with the acceptance of that custody or the provision of care for the infant or child while it is in their custody.

5. If a hospital accepts custody of an infant or child pursuant to subsection 3 of this section, the state shall reimburse the hospital for the hospital's actual expenses in accepting and caring for the infant or child. The reimbursement shall be made from moneys appropriated to the department of social services for that purpose.

6. If a relinquishing parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 2 of this section, then by operation of law and, pending court proceedings:

(1) All of the relinquishing parent's rights with respect to the infant or child are terminated;

(2) The infant or child is made a ward of the state; and

(3) The infant or child is immediately available for adoption.

7. A hospital that accepts custody of an infant or child pursuant to subsection 3 of this section shall ask the relinquishing parent of the infant or child for pertinent medical information relating to the parents and the infant or child. Such information includes, but is not limited to, information concerning the use of controlled substances and the infant's or child's birth date. If a relinquishing parent does not provide the medical information, the division of family services is authorized to attempt to identify the parents and obtain medical information and a birth date of the child.

8. The court shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days, the nonrelinquishing parent must identify himself or herself to the court and state his or her intentions regarding the child. The court shall instigate proceedings to prove paternity.

9. (1) If a relinquishing parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 2 of this section, the nonrelinquishing parent may file an action for custody of the child. The nonrelinquishing parent must file such an action within thirty days, pursuant to the procedures outlined in section 453.030, RSMo, after the hospital accepts custody of the child from the relinquishing parent. In such an action, the nonrelinquishing parent must prove he or she is the parent of the infant or child.

(2) If a nonrelinquishing parent fails to file an action within the thirty-day period specified in subdivision (1) of this subsection, the nonrelinquishing parent is forever barred from filing an action for custody of the infant or child and, by operation of law and without any court proceeding, all of the nonrelinquishing parent's rights with respect to the infant or child are terminated.

(3) When a nonrelinquishing parent inquires at a hospital concerning an infant or child whose custody was relinquished to the hospital as provided in subsection 2 of this section, the hospital shall refer the nonrelinquishing parent to the division of family services.

10. The division of family services shall adopt rules necessary to implement the

provisions of this section. The rules shall include provisions for the reimbursement of hospitals' expenses pursuant to subsection 5 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

453.005. 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home.

2. The division of family services and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014, shall provide for the diligent recruitment of potential adoptive homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. In the selection of an adoptive home, consideration shall be given to both a child's cultural, racial and ethnic background and the capacity of the adoptive parents to meet the needs of a child of a specific background, as one of a number of factors used in determining whether a placement is in the child's best interests. This factor must, however, be applied on an individualized basis, not by general rules.

4. Placement of a child in an adoptive home may not be delayed or denied [solely] on the basis of race, color or national origin.

453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), (3) or (5) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. **The child may be placed in the preapproved adoptive home immediately upon the signing of consents, and thereafter the court may proceed with approval of the consents.** Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through

procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

453.073. 1. The division of family services is authorized to grant a subsidy to a child in one of the forms of allotment defined in section 453.065. **Beginning in the 2002 fiscal year, the subsidy rate for all allotments other than the diminishing allotment shall be incrementally increased over a three-year period until the subsidy rate maintained by the division meets or exceeds the adoption rates established by the United States Department of Agriculture.** Determination of the amount of monetary need is to be made by the division at the time of placement, if practicable, and in reference to the needs of the child, including consideration of the physical and mental condition, age and racial and ethnic background of the child in each case; provided, however, that the subsidy amount shall not exceed the expenses of foster care and medical care for foster children paid under the homeless, dependent and neglected foster care program.

2. The subsidy shall be paid for children who have been in the care and custody of the division of family services under the homeless, dependent and neglected foster care program. In the case of a child who has been in the care and custody of a private child-caring or child-placing agency or in the care and custody of the division of youth services or the department of mental health, a subsidy shall be available from the division of family services subsidy program in the same manner and under the same circumstances and conditions as provided for a child who has been in the care and custody of the division of family services.

3. Within thirty days after the authorization for the grant of a subsidy by the division of family services, a written agreement shall be entered into by the division and the parents. The agreement shall set forth the following terms and conditions:

(1) The type of allotment;

(2) The amount of assistance payments;

(3) The services to be provided;

(4) The time period for which the subsidy is granted, if that period is reasonably ascertainable;

(5) The obligation of the parents to inform the division when they are no longer providing support to the child or when events affect the subsidy eligibility of the child;

(6) The eligibility of the child for Medicaid.

4. In the case that the subsidized family moves from the state of Missouri, the granted subsidy shall remain in force as stipulated in the allotment agreement, as long as the adopting family follows the established requirements and, provided further, that a subsidized family which has moved its residence from the state of Missouri shall, as a condition for the continuance of the granted subsidy, submit to the division of family services by the thirtieth day of June of each year, on a form to be provided by such division, a statement of the amounts paid for expenses for the care and maintenance of the adopted child in the preceding year. If the subsidized family fails to submit such form by the thirtieth day of June of any year, payments [under] **pursuant to** the provisions of sections 453.065 to 453.074 to a family which has moved its residence from the state of Missouri shall cease.

453.110. 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the division of family services within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child in a family home for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo.

7. A hearing on the transfer of custody for the purpose of adoption is not required if:

- (1) The conditions set forth in subsection 6 of this section are met;
- (2) The parties agree and the court grants leave; and
- (3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.

8. To facilitate the immediate placement of a child with the prospective adoptive parents, the prospective adoptive parents or a licensed child-placing agency may file a petition and the court may issue an ex parte order forty-eight hours after the birth of the child which grants transfer of temporary custody to the prospective adoptive parents or a licensed child-placing agency until a hearing is held pursuant to subsection 1 of this section, if all requirements of this chapter, including the consents required in section 453.030, have been met and filed with the court prior to the transfer of temporary custody.

453.121. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Adopted adult", any adopted person who is twenty-one years of age or over;
- (2) "Adopted child", any adopted person who is less than twenty-one years of age;
- (3) "Adult sibling", any brother or sister of the whole or half blood who is twenty-one years of age or over;
- (4) "Identifying information", information which includes the name, date of birth, place of birth and last known address of the biological parent;

(5) "Nonidentifying information", information concerning the physical description, nationality, religious background and medical history of the biological parent or sibling.

2. All papers, records, and information pertaining to an adoption whether part of any permanent record or file may be disclosed only in accordance with this section.

3. Nonidentifying information, if known, concerning undisclosed biological parents or siblings shall be furnished by the child-placing agency or the juvenile court to the adoptive parents, legal guardians or adopted adult upon written request therefor.

4. An adopted adult may make a written request to the circuit court having original jurisdiction of such adoption to secure and disclose information identifying the adopted adult's biological parents. **If the biological parents have consented to the release of identifying information pursuant to subsection 10 of this section, the court shall disclose such identifying information to the adopted adult. If the biological parents have not consented to the release of identifying information pursuant to subsection 10 of this section,** the court shall, within ten days of receipt of the request, notify in writing the adoptive parents of such petitioner and the child-placing agency or juvenile court personnel having access to the information requested of the request by the adopted adult.

5. Within three months after receiving notice of the request of the adopted adult, the child-placing agency or juvenile court personnel shall notify the adoptive parents, if such adoptive parents are living and shall not make any attempt to notify the biological parents without prior written consent of such adoptive parents for adoptions instituted or completed prior to August 13, 1986, but may proceed if there is proof that the adoptive parents are deceased or incapacitated, as such term is defined in chapter 475, RSMo. If the adoptive parents are living but are unwilling to give such written consent, the child-placing agency or the juvenile court personnel shall make a written report to the court stating that they were unable to notify the biological parent. If the adoptive parents are deceased or give written consent, the child-placing agency or the juvenile court personnel shall make reasonable efforts to notify the biological

parents of the request of the adopted adult. The child-placing agency or juvenile court personnel may charge actual costs to the adopted adult for the cost of making such search. All communications [under] **pursuant to** this subsection are confidential. For purposes of this subsection, "notify" means a personal and confidential contact with the biological parent of the adopted adult, which initial contact shall not be made by mail and shall be made by an employee of the child-placing agency which processed the adoption, juvenile court personnel or some other licensed child-placing agency designated by the child-placing agency or juvenile court. Nothing in this section shall be construed to permit the disclosure of communications privileged pursuant to section 491.060, RSMo. At the end of three months, the child-placing agency or juvenile court personnel shall file a report with the court stating that each biological parent that was located was given the following information:

- (1) The nature of the identifying information to which the agency has access;
- (2) The nature of any nonidentifying information requested;
- (3) The date of the request of the adopted adult;
- (4) The right of the biological parent to file an affidavit with the court stating that the identifying information should be disclosed;
- (5) The effect of a failure of the biological parent to file an affidavit stating that the identifying information should be disclosed.

6. If the child-placing agency or juvenile court personnel reports to the court that it has been unable to notify the biological parent within three months, the identifying information shall not be disclosed to the adopted adult. Additional requests for the same or substantially the same information may not be made to the court within one year from the end of the three-month period during which the attempted notification was made, unless good cause is shown and leave of court is granted.

7. If, within three months, the child-placing agency or juvenile court personnel reports to the court that it has notified the biological parent pursuant to subsection 5 of this section, the court shall receive the identifying information from the child-placing agency. If an affidavit duly executed by a biological parent authorizing the release of information is filed with the court, the court shall disclose the identifying information as to that biological parent to the adopted adult, provided that the other biological parent either:

- (1) Is unknown;
- (2) Is known but cannot be found and notified pursuant to subsection 5 of this section;
- (3) Is deceased; or
- (4) Has filed with the court an affidavit authorizing release of identifying information. If

the biological parent fails or refuses to file an affidavit with the court authorizing the release of identifying information, then the identifying information shall not be released to the adopted adult. No additional request for the same or substantially the same information may be made within three years of the time the biological parent fails or refuses to file an affidavit authorizing the release of identifying information.

8. If the biological parent is deceased but previously had filed an affidavit with the court stating that identifying information shall be disclosed, the information shall be forwarded to and released by the court to the adopted adult. If the biological parent is deceased and, at any time prior to his death, the biological parent did not file an affidavit with the court stating that the identifying information shall be disclosed, the adopted adult may petition the court for an order releasing the identifying information. The court shall grant the petition upon a finding that

disclosure of the information is necessary for health-related purposes.

9. Any adopted adult whose adoption was finalized in this state or whose biological parents had their parental rights terminated in this state may request the court to secure and disclose identifying information concerning an adult sibling and upon a finding by the court that such information is necessary for urgent health-related purposes in the same manner as provided in this section. Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the court or in an agency, shall be released only upon consent of that adult sibling.

10. The central office of the division of family services of the department of social services shall maintain a registry by which biological parents, **adult siblings** and adoptive adults may indicate their desire to be contacted by each other. The division may request such identification for the registry as a party may possess to assure positive identifications. **At the time of registry, a biological parent or adult sibling may consent in writing to the release of identifying information to an adopted adult. If such a consent has not been executed and** the division believes that a match has occurred on the registry between [both] biological parents **or adult siblings** and an adopted adult, an employee of the division shall make the confidential contact provided in subsection 5 of this section with the biological parents **or adult siblings** and with the adopted adult. If the division believes that a match has occurred on the registry between one biological parent **or adult sibling** and an adopted adult, an employee of the division shall make the confidential contact provided by subsection 5 of this section with the biological parent **or adult sibling**. The division shall then attempt to make such confidential contact with the other biological parent, and shall proceed thereafter to make such confidential contact with the adopted adult only if the division determines that the other biological parent meets one of the conditions specified in subsection 7 of this section. The biological parent, **adult sibling** or adopted adult may refuse to go forward with any further contact between the parties when contacted by the division.

11. The provisions of this section, except as provided in subsection 5 of this section governing the release of identifying and nonidentifying adoptive information apply to adoptions completed before and after August 13, 1986.

476.777. 1. There is hereby established in the state treasury a special fund, to be known as the "Missouri CASA Fund". The state treasurer shall credit to and deposit in the Missouri CASA fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources. The general assembly may appropriate moneys into the fund to support the court-appointed special advocate (CASA) program throughout the state.

2. The state treasurer shall invest moneys in the Missouri CASA fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the fund shall be credited to the Missouri CASA fund.

3. The state courts administrator shall administer and disburse moneys in the Missouri CASA fund based on the following requirements:

(1) The office of state courts administrator shall set aside funding for new start-up CASA programs throughout the state;

(2) Every recognized CASA program shall receive a base rate allocation, with

availability of additional funding based on the number of children with abuse or neglect cases under the jurisdiction of the court; and

(3) All CASA programs being considered for funding shall be recognized by and affiliated with the state and national CASA associations.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri CASA fund shall not revert to the credit of the general revenue fund at the end of the biennium.

568.030. 1. A person commits the crime of abandonment of a child in the first degree if, as a parent, guardian or other person legally charged with the care or custody of a child less than four years old, he leaves the child in any place with purpose wholly to abandon it, under circumstances which are likely to result in serious physical injury or death.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

3. Abandonment of a child in the first degree is a class B felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

3. Endangering the welfare of a child in the first degree is a class D felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of

a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

4. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

Bill

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