

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILLS NOS. 551, 410, 539,
528 & 296**
91ST GENERAL ASSEMBLY

Reported from the Committee on Children, Families and Health, May 15, 2001, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bills Nos. 551, 410, 539, 528 & 296 Do Pass.

TED WEDEL, Chief Clerk

2094L.06C

AN ACT

To repeal sections 208.029, 210.170, 210.536, 452.402, 453.073, 701.322, 701.326 and 701.328, RSMo 2000, relating to children and families, and to enact in lieu thereof seventeen new sections relating to the same subject.

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

Section A. Sections 208.029, 210.170, 210.536, 452.402, 453.073, 701.322, 701.326 and 701.328, RSMo 2000, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 208.029, 210.170, 210.536, 376.1290, 452.402, 453.073, 701.322, 701.326, 701.328, 701.340, 701.342, 701.343, 701.344, 701.345, 701.346, 701.348 and 701.349, to read as follows:

208.029. 1. **Subject to appropriations**, 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;

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

(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 years of age or older;

(2) Is the legal guardian of a grandchild placed in such grandparent's custody; [and]

(3) Has an annual household income at or below two hundred percent of the federal poverty level; and

[(3)] **(4) 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) **and (4)** of subsection 2 of this section.

4. The grandparents as foster parents program [shall] **may**:

(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 years of age, or are fifty years of age or older and refuse to participate in the [training] **program** 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.

210.170. 1. There is hereby created within the office of administration of the state of Missouri the "Children's Trust Fund Board", which shall be composed of seventeen **but not more than twenty-one** members as follows:

(1) Twelve public members to be appointed by the governor by and with the advice and consent of the senate; **and the governor may appoint four additional members with the advice and consent of the senate if he deems necessary**. As a group, the public members appointed [under] **pursuant to** this subdivision shall demonstrate knowledge in the area of prevention programs, shall be representative of the demographic composition of this state, and, to the extent practicable, shall be representative of all of the following categories:

- (a) Organized labor;
 - (b) The business community;
 - (c) The educational community;
 - (d) The religious community;
 - (e) The legal community;
 - (f) Professional providers of prevention services to families and children;
 - (g) Volunteers in prevention services;
 - (h) Social services;
 - (i) Health care services; and
 - (j) Mental health services;
- (2) A physician licensed pursuant to chapter 334, RSMo;

(3) Two members of the Missouri house of representatives, who shall be appointed by the speaker of the house of representatives and shall be members of two different political parties; and

(4) Two members of the Missouri senate, who shall be appointed by the president pro tem of the senate and who shall be members of two different political parties.

2. All members of the board appointed by the speaker of the house or the president pro tem of the senate shall serve until their term in the house or senate during which they were appointed to the board expires. All public members of the board shall serve for terms of three years; except, that of the public members first appointed, four shall serve for terms of three years, four shall serve for terms of two years, and three shall serve for terms of one year. No public members may serve more than two consecutive terms, regardless of whether such terms were full or partial terms. Each member shall serve until his

successor is appointed. All vacancies on the board shall be filled for the balance of the unexpired term in the same manner in which the board membership which is vacant was originally filled.

3. Any public member of the board may be removed by the governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

4. The board may employ an executive director who shall be charged with carrying out the duties and responsibilities assigned to him **or her** by the board. The executive director may obtain all necessary office space, facilities, and equipment, and may hire and set the compensation of such staff as is approved by the board and within the limitations of appropriations for the purpose. All staff members, except the executive director, shall be employed pursuant to chapter 36, RSMo.

5. Each member of the board shall be reimbursed for all actual and necessary expenses incurred by [him] **the member** in the performance of his **or her** official duties. All reimbursements made [under] **pursuant to** this subsection shall be made from funds in the children's trust fund appropriated for that purpose.

6. All business transactions of the board shall be conducted in public meetings in accordance with sections 610.010 to 610.030, RSMo.

7. The board may accept federal funds for the purposes of sections 210.170 to 210.174, as well as gifts and donations from individuals, private organizations, and foundations. The acceptance and use of federal funds shall not commit any state funds nor place any obligation upon the general assembly to continue the programs or activities for which the federal funds are made available. All funds received in the manner described in this subsection shall be transmitted to the state treasurer for deposit in the state treasury to the credit of the children's trust fund.

8. The board shall elect a chairperson from among the public members, who shall serve for a term of two years. The board may elect such other officers and establish such committees as it deems appropriate.

9. The board shall exercise its powers and duties independently of the office of administration except that budgetary, procurement, accounting, and other related management functions shall be performed by the office of administration.

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. **Subject to appropriations, beginning in the 2003 fiscal year, the reimbursement rate for the cost of foster care shall be incrementally increased over a four-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.

376.1290. 1. Each entity offering individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service or indemnity type contracts issued by a health services corporation, individual and group service contracts issued by a health maintenance organization, all self-insured group arrangements, to the extent not preempted by federal law, and all managed health care delivery entities of any type or description that are delivered, issued for delivery, continued or renewed in this state on or after January 1, 2002, shall offer coverage for testing pregnant women for lead poisoning and for all testing for lead poisoning authorized by sections 701.340 to 701.349, RSMo, or by rule of the department of health promulgated pursuant to sections 701.340 to 701.349, RSMo.

2. Health care services required by this section shall not be subject to any greater deductible or co-payment than any other health care service provided by the policy, contract or plan.

3. No entity enumerated in subsection 1 of this section shall reduce or eliminate coverage as a result of the requirements of this section.

4. Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance policies.

452.402. 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have been denied to them;

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation rights **to a parent of the deceased parent of the child;**

(3) **The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition;**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. **However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision;** or

[(4)] (5) The child is adopted by a stepparent, another grandparent or other blood relative.

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. **However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child.** The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to seek or maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

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. **Subject to appropriations, beginning in the 2003 fiscal year, the subsidy rate for all allotments other than the diminishing allotment shall be incrementally increased over a four-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.

701.322. Upon request of a physician, health care facility or third-party insurer, the department may provide laboratory services for tests related to contagious or infectious diseases. The department may conduct laboratory testing of blood specimens for lead content on behalf of a physician, hospital, clinic, free clinic, municipality or private organization which cannot secure or provide such services through other sources. The department of health may charge a fee for laboratory services rendered [under] **pursuant to** this section. [Such] Fees **for tests related to contagious or infectious diseases** shall be deposited in a separate account in the Missouri public health services fund, created in section 192.900, RSMo, and funds in such account shall be used to provide laboratory testing services by the department.

Fees for laboratory testing of blood specimens for lead content shall be deposited in the childhood lead testing fund created in section 701.345, RSMo.

701.326. 1. The department of health shall establish and maintain a lead poisoning information reporting system which shall include a record of lead poisoning cases which occur in Missouri along with the information concerning these cases which is deemed necessary and appropriate to conduct comprehensive epidemiologic studies of lead poisoning in this state and to evaluate the appropriateness of lead abatement programs.

2. The director of the department of health shall promulgate rules and regulations specifying the level of lead poisoning which shall be reported and any accompanying information to be reported in each case. Such information may include the patient's name, **full residence** address, **and** diagnosis, **including**

the blood lead level. Such information may include pathological findings, the stage of the disease, environmental and known occupational factors, method of treatment and other relevant data from medical histories. Reports of lead poisoning shall be filed with the director of the department of health within a period of time specified by the director. The department shall prescribe the form and manner in which the information shall be reported.

3. The attending health care professional of any patient with lead poisoning shall provide to the department of health the information required pursuant to this section.

4. When a case of lead poisoning is reported to the director, the director shall inform such local boards of health, public health agencies, and other persons and organizations as the director deems necessary; provided that, the name of any child contracting lead poisoning shall not be included unless the director determines that such inclusion is necessary to protect the health and well-being of the affected individual.

701.328. 1. The department of health shall protect the identity of the patient and physician involved in the reporting required by sections 701.318 to [701.330] **701.349**. Such identity shall not be revealed except that the identity of the patient shall be released only upon written consent of the patient. The identity of the physician shall be released only upon written consent of the physician.

2. The department may release without consent any information obtained pursuant to sections 701.318 to [701.330] **701.349**, including the identities of certain patients or physicians, when the information is necessary for the performance of duties by public employees within, or the legally designated agents of, any state or local agency, department or political subdivision, but only when such employees and agents need to know such information to perform their public duties.

3. The department shall use or publish reports based upon materials reported pursuant to sections 701.318 to [701.330] **701.349** to advance research, education, treatment and lead abatement. **The department shall geographically index the data from lead testing reports to determine the location of areas of high incidence of lead poisoning.** The department shall provide qualified researchers with data from the reported information upon the researcher's compliance with appropriate conditions as provided by rule and upon payment of a fee to cover the cost of processing the data.

701.340. 1. Beginning July 1, 2002, the department of health shall, subject to appropriations, implement a childhood lead testing program which requires every child less than six years of age to be tested for lead poisoning in accordance with the provisions of sections 701.340 to 701.349. In coordination with the department of health, every health care facility serving children less than six years of age, including but not limited to hospitals and clinics licensed pursuant to chapter 197, RSMo, shall take appropriate steps to ensure that their patients receive such lead poisoning testing.

2. The test for lead poisoning shall consist of a blood sample that shall be sent for analysis to a laboratory licensed pursuant to the federal Clinical Lab Improvement Act (CLIA).

The department of health shall, by rule, determine the blood test protocol to be used.

3. Nothing in sections 701.340 to 701.349 shall be construed to require a child to undergo lead testing whose parent or guardian objects to the testing in a written statement that states the parent's or guardian's reason for refusing such testing.

701.342. 1. The department of health shall, using factors established by the department, including but not limited to the geographic index from data from testing reports, identify geographic areas in the state that are at high risk for lead poisoning. All children six months of age through six years of age who reside or spend more than ten hours a week in an area identified as high risk by the department shall be tested annually for lead poisoning.

2. Every child six months through six years of age not residing or spending more than ten hours a week in geographic areas identified as high risk by the department shall be assessed annually using a questionnaire to determine whether such child is at high risk for lead poisoning. The department, in collaboration with the department of social services, shall develop the questionnaire, which shall follow the recommendations of the federal Centers for Disease Control and Prevention. The department may modify the questionnaire to broaden the scope of the high-risk category. Local boards or commissions of health may add questions to the questionnaire.

3. Every child deemed to be at high risk for lead poisoning according to the questionnaire developed pursuant to subsection 2 of this section shall be tested using a blood sample.

4. Any child deemed to be at high risk for lead poisoning pursuant to this section who resides in housing currently undergoing renovations shall be tested at least once every three months during the renovation and once after the completion of the renovation.

5. Any laboratory providing test results for lead poisoning pursuant to sections 701.340 to 701.349 shall notify the department of the test results of any child tested for lead poisoning as required in section 701.326. Any child who tests positive for lead poisoning shall receive follow-up testing in accordance with rules established by the department. The department shall, by rule, establish the methods and intervals of follow-up testing and treatment for such children.

6. When the department is notified of a case of lead poisoning, the department shall require the testing of all other children less than six years of age, and any other children or persons at risk, as determined by the director, who are residing or have recently resided in the household of the lead poisoned child.

701.343. The department of health shall have the following duties regarding the childhood lead testing program:

(1) By July 1, 2002, the department shall develop an educational mailing to be sent to every physician licensed by and practicing in this state informing such physician of the childhood lead testing program and the responsibilities of physicians pursuant to such program;

(2) The department of health shall, by July 1, 2002, develop guidelines, educational

materials and a questionnaire to be used by physicians to determine whether pregnant women are at high risk and should be tested for lead poisoning;

(3) The department shall apply for, take all steps necessary to qualify for and accept any federal funds made available or allotted pursuant to any federal act or program for state lead poisoning prevention programs;

(4) The department shall convene a task force to investigate the imposition of a fee on entities manufacturing products containing lead. By March 1, 2002, the task force shall report its recommendations to the director of the department of health. Such fees shall be limited to the amount deemed necessary by the director of the department of health for implementation of sections 701.340 to 701.349. Fees collected pursuant to this subdivision shall be deposited in the childhood lead testing fund;

(5) The director of the department of health or the director's designee may, subject to appropriations, contract with a public agency or a university, or collaborate with any agencies, individuals or groups to provide necessary services, develop educational programs, scientific research and organization, and interpret data from lead testing reports;

(6) The department shall promulgate such rules as may be necessary; and

(7) Beginning January 1, 2003, and every January first thereafter, the department of health shall submit a report evaluating the childhood lead testing program as set forth in sections 701.340 to 701.349 to the governor and the following committees of the Missouri legislature: senate appropriations committee, senate public health and welfare committee, house appropriations - health and mental health committee and house public health committee.

701.344. 1. In geographic areas determined to be of high risk for lead poisoning as set forth in section 701.342, every child care facility, as defined in section 210.201, RSMo, and every child care facility affiliated with a school system, a business organization or a nonprofit organization shall, within thirty days of enrolling a child, require the child's parent or guardian to provide evidence of lead poisoning testing in the form of a statement from the health care professional that administered the test or provide a written statement that states the parent's or guardian's reason for refusing such testing. If there is no evidence of testing, the person in charge of the facility shall provide the parent or guardian with information about lead poisoning and locations in the area where the child can be tested. When a parent or guardian cannot obtain such testing, the person in charge of the facility may arrange for the child to be tested by a local health officer with the consent of the child's parent or guardian. At the beginning of each year of enrollment in such facility, the parent or guardian shall provide proof of testing in accordance with the provisions of sections 701.340 to 701.349 and any rules promulgated thereunder.

2. No child shall be denied access to education or child care because of failure to comply with the provisions of sections 701.340 to 701.349.

701.345. 1. There is hereby created in the state treasury the "Childhood Lead Testing Fund". The state treasurer shall deposit to the credit of the 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 related to lead testing, education and screening. The general assembly may appropriate moneys to the fund for the support of the childhood lead testing program established in sections 701.340 to 701.349. The moneys in the fund shall be used to fund the administration of childhood lead programs, the administration of blood tests to uninsured children, educational materials and analysis of lead blood test reports and case management.

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

701.346. The department of health shall promulgate rules to implement the provisions of sections 701.340 to 701.349. No rule or portion of a rule promulgated under the authority of sections 701.340 to 701.349 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

701.348. Nothing in sections 701.340 to 701.349 shall prohibit a political subdivision of this state or a local board of health from enacting and enforcing ordinances, rules or laws for the prevention, detection and control of lead poisoning which provide the same or more stringent provisions as sections 701.340 to 701.349, or the rules promulgated thereunder.

701.349. If any provisions of sections 701.340 to 701.349, or the application thereof, to any persons or circumstances is held invalid, such validity shall not affect other provisions or applications of sections 701.340 to 701.349 that can be given effect without the invalid provision or application, and to this end the provisions of sections 701.340 to 701.349 are declared to be severable.

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