

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 44 & 59
91ST GENERAL ASSEMBLY

Reported from the Committee on Aging, Families and Mental Health, February 1, 2001, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 44 and 59, adopted February 13, 2001.

Taken up for Perfection February 13, 2001. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0324S.03P

AN ACT

To repeal sections 207.020, 453.005, 453.010, 453.070 and 453.080, RSMo 2000, relating to adoption, and to enact in lieu thereof eight new sections relating to the same subject.

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

Section A. Sections 207.020, 453.005, 453.010, 453.070 and 453.080, RSMo 2000, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.1785, 191.938, 191.975, 207.020, 453.005, 453.010, 453.070 and 453.080, to read as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 corporate and politic with taxing power and shall have the duties, privileges, immunities, rights, liabilities and disabilities of a public body corporate and politic.

191.938. 1. There is hereby established an "Automated External Defibrillator Advisory Committee" within the department of health.

2. The committee shall advise the department of health, the office of administration and the legislature on the advisability of placing automated external defibrillators in public buildings, especially in public buildings owned by the state of

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

Missouri or housing employees of the state of Missouri with special consideration to state office buildings accessible to the public.

3. The committee shall issue an initial report no later than June 1, 2002, and a final report no later than December 31, 2002, to the department of health, the office of administration and the governor's office. The issues to be addressed in the report shall include, but need not be limited to:

(1) The advisability of placing automated external defibrillators in public buildings and the determination of the criteria as to which public buildings should have automated external defibrillators and how such automated external defibrillators' placement should be accomplished;

(2) Projections of the cost of the purchase, placement and maintenance of any recommended automated external defibrillator placement;

(3) Discussion of the need for, and cost of, training personnel in the use of automated external defibrillators and in cardiopulmonary resuscitation;

(4) The integration of automated external defibrillators with existing emergency service.

4. The committee shall be composed of the following members appointed by the director of the department of health:

(1) A representative of the department of health;

(2) A representative of the office of administration, division of facilities management;

(3) A representative of the American Red Cross;

(4) A representative of the American Heart Association;

(5) A physician who has experience in the emergency care of patients.

5. The department of health member shall be the chair of the first meeting of the committee. At the first meeting, the committee shall elect a chairperson from its membership. The committee shall meet at the call of the chairperson, but not less than four times a year.

6. The department of health shall provide technical and administrative support services as required by the committee. The office of administration shall provide technical support to the committee in the form of information and research on the number, size, use and occupancy of buildings in which employees of the state of Missouri work.

7. Members of the committee shall receive no compensation for their services as members, but shall be reimbursed for expenses incurred as a result of their duties as members of the committee.

8. The committee shall adopt written bylaws to govern its activities.

9. The automated external defibrillator advisory committee shall terminate on June 1, 2003.

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

2. In order to raise public awareness and educate the public, 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;

(2) Establishing and promoting education materials which shall include a toll-free telephone number established by the department and which may include a video, brochures or public relations campaigns about adoption and foster care for public use and for use as a part of the department of health's family planning and education programs. The material shall include, but not be limited to, information about:

(a) The benefits of adoption and foster care;

(b) Adoption and foster care procedures;

(c) Methods of payment;

(d) Methods of controlling the adoption of a child, including the choice of adoptive parents;

(e) Protection for and rights, or lack thereof, of the birth parents prior to and following the adoption;

(f) Location of adoption and foster care agencies;

(g) Discussion of various state health programs for women and children, including medical assistance programs, as well as income assistance programs; and

(h) Direction to appropriate counseling services which shall include, but not be limited to, information for parents who elect to keep their children;

(3) Such materials shall be made available through department of health clinics and family planning programs, and privately-funded adoption agencies, and abortion facilities, as defined in section 188.015, RSMo, and private physicians for distribution to their patients who request such material. Such materials may be made available to the public through the department of health's Internet website.

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.

207.020. 1. In addition to the powers, duties and functions vested in the division of family

services by other provisions of this chapter or by other laws of this state, the division of family services shall have the power:

- (1) To sue and be sued;
- (2) To make contracts and carry out the duties imposed upon it by this or any other law;
- (3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;
- (4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of same;
- (5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;
- (6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the division of family services is acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state plans hereunder;
- (7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;
- (8) To establish, extend and strengthen child welfare services for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent;
- (9) To expend child welfare service funds for payment of part of the cost of district, county or other local child welfare services;
- (10) To administer state child welfare activities and develop state services for the encouragement and assistance of adequate methods of community child welfare organizations;
- (11) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to welfare problems and welfare administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the division of family services, and such advisory committees shall consult with and advise the division of family services in respect to problems and policies incident to the administration of the particular function germane to the respective field of competence;
- (12) To initiate or cooperate with other agencies in developing measures for the prevention of dependency and the rehabilitation of needy persons;
- (13) To collect statistics, make special fact-finding studies and publish reports in reference

to public welfare;

(14) To establish or cooperate in research or demonstration projects relative to the welfare program, such as those relating to the prevention and reduction of dependency and economic distress, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help improve the administration and effectiveness of programs carried on or assisted under the federal Social Security Act and the programs related thereto;

(15) To provide appropriate public welfare services to promote, safeguard and protect the social well-being and general welfare of children and to help maintain and strengthen family life, and to provide such public welfare services to aid needy persons who can be so helped to become self-supporting or capable of self-care;

(16) Upon request, to cooperate with the juvenile court and furnish social studies and reports to the court with respect to children as to whom adoption or neglect petitions have been filed;

(17) To accept for social services and care, homeless, dependent or neglected children in all counties where legal custody is vested in the division of family services by the juvenile court where the juvenile court has acquired jurisdiction pursuant to subdivision (1) or (2) of subsection 1 of section 211.031, RSMo; provided that prior to legal custody being vested in the division of family services, the division of family services shall conduct an evaluation of the child, examine the child and investigate all pertinent circumstances of his **or her** background for the purpose of determining appropriate services and a treatment plan for the child. This evaluation shall involve local division staff and consultation with the juvenile officer or **[his] the officer's** designee, appropriate state agencies, including but not limited to the department of mental health and the department of elementary and secondary education, or private practitioners who are knowledgeable of the child or programs or services appropriate to the needs of the child and shall be completed within thirty days. Temporary custody may be placed with the division of family services while the evaluation is being conducted. A report of such proceedings and findings shall be submitted in writing to the appropriate court:

(a) The division may, at any time, if it finds the child placed in its custody is in need of care or treatment other than that which it can provide, apply to the court which placed such child for an order relieving it of custody of such child. The court must make a determination within ten days and the court shall be vested with full power to make such disposition of the child as is authorized by law, including continued custody;

(b) The division may, prior to the child's eighteenth birthday, if it finds the child placed in its custody is in need of care or treatment beyond the child's eighteenth birthday, apply to the court which placed such child for an order extending custody of such child for good cause. The court must make a determination prior to the child's eighteenth birthday and the court shall be vested with full power to make such

disposition of the child as is authorized by law, including continued custody beyond the child's eighteenth birthday;

(c) However, no payments for care shall be made:

a. To facilities with which the division of family services has no contract to provide such care, or to facilities in the state of Missouri which are not licensed by the state of Missouri unless exempt from such licensure;

b. To any facility outside the state of Missouri unless the division of family services determines that there is no facility in the state of Missouri which can provide substantially equivalent care, except that this limitation shall not apply to any facility outside the state of Missouri if that facility is the closest available facility to the child's home or the division of family services determines that such placement is in the child's best interest; nor

c. To any facility outside the state of Missouri which is not licensed or exempted from licensure by the state in which it is located, or which cannot document that it meets requirements which would be necessary for licensure in the state of Missouri. The term "care" shall include room, board, clothing, medical care, dental care, social services and incidentals;

(18) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof;

(19) To make periodic surveys of cost-of-living factors in relation to the needs of recipients of public assistance, and establish standards or budgetary guides for determining minimum costs of meeting such requirements, and amend such standards from time to time as circumstances may require.

2. All powers and duties of the division of family services shall, so far as applicable, apply to the administration of any other law or state law wherein duties are imposed upon the division of family services acting as a state agency.

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 on the basis of race, color or national origin.

453.010. 1. Any person desiring to adopt another person as his or her child shall petition the juvenile division of the circuit court of the county in which:

- (1) The person seeking to adopt resides;
- (2) The child sought to be adopted was born;
- (3) The child is located at the time of the filing of the petition; or
- (4) Either birth person resides.

2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of subsection 1 of this section.

3. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to adopt such person as his or her child shall petition the juvenile division of the circuit court which has jurisdiction over the child for permission to adopt such person as his or her child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.

4. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.

5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile. **The court shall expedite the placement of a child for adoption pursuant to subsection 3 of this section.**

453.070. 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a

licensed child-placement agency, a social worker licensed pursuant to chapter 337, RSMo, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of [twelve] **nine** months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

453.080. 1. The court shall conduct a hearing to determine whether the adoption shall be finalized. During such hearing, the court shall ascertain whether:

(1) The person sought to be adopted, if a child, has been in the lawful and actual custody of the petitioner for a period of at least six months prior to entry of the adoption decree; **except that the six month period shall be waived if the person sought to be adopted is a child**

who is under the prior and continuing jurisdiction of a court pursuant to chapter 211, RSMo, and the person desiring to adopt the child is the child's current foster parent. "Lawful and actual custody" shall include a transfer of custody pursuant to the laws of this state, another state, a territory of the United States, or another country;

(2) The court has received and reviewed a postplacement assessment on the monthly contacts with the adoptive family pursuant to section 453.077, except for good cause shown in the case of a child adopted from a foreign country;

(3) The court has received and reviewed an updated financial affidavit;

(4) The court has received the recommendations of the guardian ad litem and has received and reviewed the recommendations of the person placing the child, the person making the assessment and the person making the postplacement assessment;

(5) There is compliance with the uniform child custody jurisdiction act, sections 452.440 to 452.550, RSMo;

(6) There is compliance with the Indian Child Welfare Act, if applicable;

(7) There is compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo; and

(8) It is fit and proper that such adoption should be made.

2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of custody has occurred pursuant to section 453.110, the court may authorize the filing for finalization in another state if the adoptive parents are domiciled in that state.

3. If the court determines the adoption should be finalized, a decree shall be issued setting forth the facts and ordering that from the date of the decree the adoptee shall be for all legal intents and purposes the child of the petitioner or petitioners. The court may decree that the name of the person sought to be adopted be changed, according to the prayer of the petition.

4. Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.