

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 687

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Offered March 14, 2002.

Senate Substitute adopted, March 14, 2002.

Taken up for Perfection March 14, 2002. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

2635S.03P

AN ACT

To repeal sections 210.906, 211.183, 568.030, 568.045 and 568.050, RSMo, relating to abandonment of a child, and to enact in lieu thereof seven 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Section A. Sections 210.906, 211.183, 568.030, 568.045 and 568.050, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 210.566, 210.906, 210.950, 211.183, 568.030, 568.045 and 568.050, to read as follows:

210.566. 1. The division of family services and its contractors shall treat foster parents with courtesy, respect and consideration. Foster parents shall treat the children in their care, the child's birth family and members of the child welfare team with courtesy, respect and consideration.

2. (1) The division of family services and its contractors shall provide foster parents with training, pre-service and in-service, and support. The division of family services and its contractors shall share all pertinent information about the child and the child's family, including but not limited to, the case plan with the foster parents to assist in determining if a child would be a proper placement. The division of family services and its contractors shall inform the foster parents of issues relative to the

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

child that may jeopardize the health or safety of the foster family. The division of family services and its contractors shall arrange pre-placement visits, except in emergencies. The foster parents may ask questions about the child's case plan, encourage a placement or refuse a placement without reprisal from the caseworker or agency. After a placement, the division of family services shall update the foster parents as new information about the child is gathered. Foster parents shall be informed of upcoming meetings and staffings, and shall be allowed to participate, consistent with section 210.761. The division of family services shall establish reasonably accessible respite care for children in foster care for short periods of time, jointly determined by foster parents and the child's caseworker pursuant to section 210.545.

(2) Foster parents shall treat all information received from the division of family services about the child and the child's family as confidential. Foster parents may share information they may learn about the child and the child's family with the caseworker and other members of the child welfare team. Recognizing that placement changes are difficult for children, foster parents shall seek all necessary information, and participate in pre-placement visits, before deciding whether to accept a child for placement. Foster parents shall follow all procedures defined by the division of family services for requesting and using respite care.

3. (1) Foster parents shall make decisions about the daily living concerns of the child, and shall be permitted to continue the practice of their own family values and routines while respecting the child's cultural heritage. All discipline shall be consistent with state laws and regulations. The division of family services shall allow foster parents to help plan visitation between the child and the child's biological family.

(2) Foster parents shall provide care that is respectful of the child's cultural identity, values and needs. Foster parents shall recognize that the purpose of discipline is to teach and direct the behavior of the child, and ensure that it is administered in a humane and sensitive manner. Recognizing that visitation with family members is an important right, foster parents shall be flexible and cooperative in regard to family visits.

4. (1) Consistent with state laws and regulations, the state may provide, upon request by the foster parents, information about a child's progress after the child leaves foster care. Except in emergencies, foster parents shall be given advance notice consistent with division policy, and a written statement of the reasons before a child is removed from their care. If a child re-enters the foster care system, the child's foster parents shall be considered as a placement option. If a child becomes

free for adoption while in foster care, the child's foster family shall be given preferential consideration as adoptive parents consistent with section 453.070, RSMo.

(2) Confidentiality rights of the child and the child's parents shall be respected and maintained. Foster parents shall inform the child's caseworker of their interest if a child re-enters the system. If a foster child becomes free for adoption and the foster parents desire to adopt the child, they shall inform the caseworker in a timely manner. If they do not choose to pursue adoption, foster parents shall make every effort to support and encourage the child's placement in a permanent home. When requesting removal of a child from their home, foster parents shall give reasonable advance notice, consistent with division policy, to the child's caseworker, except in emergency situations.

5. (1) Foster parents shall be informed by the court in a timely manner of all court hearings pertaining to a child in their care, and informed of their right to attend and participate, consistent with section 211.464, RSMo.

(2) Foster parents shall share any concerns regarding the case plan for a child in their care with the child's caseworker, as well as other members of the child welfare team, in a timely manner.

6. Foster parents shall have timely access to the child placement agency's appeals process, and shall be free from acts of retaliation when exercising the right to appeal. Foster parents shall know and follow the policies of the state, including the appeals procedure.

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1, 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration form provided by the department. The department shall make such forms available no later than January 1, 2001, and may, by rule, determine the specific content of such form, but every form shall:

- (1) Request the valid Social Security number of the applicant;
- (2) Include information on the person's right to appeal the information contained in the registry pursuant to section 210.912;
- (3) Contain the signed consent of the applicant for the background checks required pursuant to this section; and
- (4) Contain the signed consent for the release of information contained in the background check for employment purposes only.

2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and every personal-care worker hired on or after January 1, 2002, shall complete a registration form within fifteen days of the beginning of such person's employment. Any person employed as a child-care, elder-care or personal-care worker who fails to submit a completed registration form

to the department of health and senior services as required by sections 210.900 to 210.936 without good cause, as determined by the department, is guilty of a class B misdemeanor.

3. The costs of the criminal background check may be paid by the individual applicant, or by the provider if the applicant is so employed, or for those applicants receiving public assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325, RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall be deposited to the credit of the criminal record system fund as required by section 43.530, RSMo.

4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically registered in the family care safety registry at no additional cost other than the costs required pursuant to sections 210.481 to 210.565.

5. Any person not required to register pursuant to the provisions of sections 210.900 to 210.936 may also be included in the registry if such person voluntarily applies to the department for registration and meets the requirements of this section and section 210.909, including submitting to the background checks in subsection 1 of section 210.909.

[5.] **6.** The provisions of sections 210.900 to 210.936 shall not extend to related child care, related elder care or related personal care.

210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002".

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

(1) The parent leaves his or her newborn child in the physical custody of an employee, agent or member of the staff of a hospital, as defined in section 197.020, RSMo, who is on duty in a paid or volunteer position;

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

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

3. A hospital shall, without a court order, take physical custody of a child who is five days old or younger if the child is voluntarily delivered to the facility by the child's parent and the parent does not express an intent to return for the child. The hospital shall provide treatment in accordance with the prevailing standard of care as necessary to protect the physical health or safety of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parents implied consent to any such act. The hospital shall notify the division of family services at such time as such child is medically ready for discharge. Upon such notification, the division of family services shall take physical custody of the child.

4. The division of family services shall:

(1) Provide information and answer questions about the process established by

this section on the statewide, toll-free telephone number maintained pursuant to section 210.145, RSMo;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

211.183. 1. In juvenile court proceedings regarding the removal of a child from his or her home, the court's order shall include a determination of whether the division of family services has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. In determining reasonable efforts to be made and in making such reasonable efforts, the child's present and ongoing health and safety shall be the paramount consideration.

3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.

4. The juvenile court may authorize the removal of the child even if the preventive and reunification efforts of the division have not been reasonable, but further efforts could not permit the child to remain at home.

5. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court, excluding commitments to the division of youth services, the court shall in its orders:

(1) State whether removal of the child is necessary to protect the child and the reasons therefor;

(2) Describe the services available to the family before removal of the child, including in-home services;

(3) Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;

(4) State why efforts made to provide family services described did not prevent removal of the child; and

(5) State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.

6. If continuation of reasonable efforts, as described in this section, is determined by the division to be inconsistent with establishing a permanent placement for the child, the division

shall take such steps as are deemed necessary by the division, including seeking modification of any court order to modify the permanency plan for the child.

7. The division shall not be required to make reasonable efforts, as defined in this section, but has the discretion to make reasonable efforts if a court of competent jurisdiction has determined that:

(1) The parent has subjected the child **or any child of the parent** to a severe act or recurrent acts of physical, emotional or sexual abuse toward the child, including an act of incest, **or the acts were committed by another person under circumstances that indicate that the parent knew or should have known that such acts were being committed toward the child or any child of the parent;** or

(2) The parent has:

- (a) Committed murder of another child of the parent;
- (b) Committed voluntary manslaughter of another child of the parent;
- (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or
- (d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent; or

(3) The parent's parental rights to a sibling have been involuntarily terminated.

8. If the court determines that reasonable efforts, as described in this section, are not required to be made by the division, the court shall hold a permanency hearing within thirty days after the court has made such determination. The division shall complete whatever steps are necessary to finalize the permanent placement of the child.

9. The division may concurrently engage in reasonable efforts, as described in this section, while engaging in such other measures as are deemed appropriate by the division to establish a permanent placement for the child.

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.

[2.] **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.

[2.] **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.

[3.] **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.

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