

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE NO. 2 FOR
SENATE BILL NO. 762
92ND GENERAL ASSEMBLY

Reported from the Committee on Children and Families, May 3, 2004, with recommendation that the House Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 762 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

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AN ACT

To repeal sections 26.740, 43.503, 43.530, 43.540, 135.327, 135.333, 167.020, 207.050, 207.060, 210.025, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 431.056, 452.310, 452.375, 452.400, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, and 701.336, RSMo, and to enact in lieu thereof seventy-five new sections relating to foster care and protection of children, with penalty provisions and an emergency clause.

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

Section A. Sections 26.740, 43.503, 43.530, 43.540, 135.327, 135.333, 167.020, 207.050, 207.060, 210.025, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 431.056, 452.310, 452.375, 452.400, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, and 701.336, RSMo, are repealed and seventy-five new sections enacted in lieu thereof, to be known as sections 37.699, 37.700, 37.705, 37.710, 37.715, 37.725, 37.730, 43.503, 43.530, 43.540, 135.327, 135.333, 167.020, 168.283, 191.748, 207.050, 207.060, 207.085, 208.647, 210.025, 210.108, 210.109, 210.110, 210.111, 210.112, 210.113, 210.117, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.201, 210.211, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 210.903, 210.909, 211.031, 211.032, 211.038, 211.059,

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

211.171, 211.181, 211.319, 302.272, 402.199, 402.200, 402.205, 402.215, 402.217, 431.056, 452.310, 452.375, 452.400, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, 701.336, 1, and 2, to read as follows:

37.699. Sections 37.700 to 37.730, 168.283, 191.748, 207.085, 210.109, 210.110, 210.111, 210.112, 210.113, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 211.031, 211.032, 211.059, 211.319, and 537.046, RSMo, shall be known and may be cited as the "Dominic James Memorial Foster Care Reform Act of 2004".

37.700. As used in sections 37.700 to 37.730, the following terms mean:

- (1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;**
- (2) "Recipient", any child who is receiving child welfare services from the department of social services or its contractors, or services from the department of mental health.**

37.705. 1. There is hereby established within the office of administration the "Office of Child Advocate for Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services, programs offered by the department of social services, or the department of mental health, or the juvenile court. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services, the department of mental health, and the juvenile court in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

37.710. 1. The office shall have access to the following information:

- (1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;**
- (2) All written reports of child abuse and neglect; and**
- (3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.**

2. The office shall have the authority:

- (1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;**
- (2) To have access, including the right to inspect, copy and subpoena records held by**

the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file amicus curiae briefs on behalf of the interests of the parent or child;

(5) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(6) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(7) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest; and

(8) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner.

37.715. 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the departments of social services and mental health, and the juvenile court. Such procedures shall address complaints relating to the actions, inactions, or decisions of providers or their representatives, public or private child welfare agencies, social service agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for the handling and, whenever possible, the resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary.

4. The office may recommend to any state or local agency changes in the rules adopted or proposed by such state or local agency which adversely affect or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights

and entitlements under state and federal laws and regulations through the distribution of educational materials.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report on the work of the office of the child advocate for children's protection and services. Such report shall include, but not be limited to, the number of complaints received by the office, the disposition of such complaints, the number of recipients involved in complaints, the state entities named in complaints and whether such complaints were found to be substantiated, and any recommendations for improving the delivery of services to reduce complaints or improving the function of the office of the child advocate for children's protection and services.

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

37.730. 1. Any employee or an unpaid volunteer of the office shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections 37.700 to 37.730 and such representative shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a

class A misdemeanor.

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.543.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, appropriate charge codes, and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age and not currently certified as an adult is taken into custody for an offense which would be a felony if committed by an adult, the arresting officer shall take fingerprints for the central repository. These fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol. The fingerprint cards shall be so constructed that the name of the juvenile should not be made available to the central repository. The individual's name and the unique number associated with the fingerprints and other pertinent information shall be provided to the court of jurisdiction by the agency taking the juvenile into custody. The juvenile's fingerprints and other information shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. In the event the fingerprints are found to match other tenprints or unsolved latent prints, the central repository shall notify the submitting agency who shall notify the court of jurisdiction as per local agreement.

4. Upon certification of the individual as an adult, the **certifying** court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed

records as provided under section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

5. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol or in a manner approved by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, the charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

6. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol or in a manner approved by the highway patrol, with all final dispositions of cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to sections 43.500 to 43.506. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the sentencing court, using such numbers as assigned by the highway patrol.

7. The clerk of the courts of each county or city not within a county shall furnish, to the department of corrections or department of mental health, court judgment and sentence documents and the state offense cycle number and the charge code of the offense which resulted in the commitment or assignment of an offender to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, or in a manner and format mutually agreed to, within fifteen days of such

disposition.

8. Information and fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency to fingerprint immediately the defendant. The law enforcement agency shall submit such fingerprints to the central repository without undue delay and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.

9. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.543 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.530. 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than [five] **ten** dollars per request for criminal history record information not based on a fingerprint search and pay a fee of not more than [fourteen] **twenty** dollars per request for criminal history record information based on a fingerprint search. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

2. For purposes of obtaining criminal records prior to issuance of a school bus operator's permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the

applicant for such permit shall submit two sets of fingerprints to the director of revenue when applying for the permit. The fingerprints shall be collected in a manner approved by the superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate fee described in this section and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit. Collections for records described in this subsection shall be deposited in the criminal record system fund.

43.540. 1. As used in this section, the following terms mean:

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

(3) "Missouri criminal record review", a review of criminal history records [or] **and** sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

(5) "Patient or resident", a person who by reason of age, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(6) "Provider", a person who:

(a) Has or may have unsupervised access to children, the elderly, or persons with disabilities; and

(b) **a.** Is employed by or seeks employment with a qualified entity; or

[(c)] **b.** Volunteers or seeks to volunteer with a qualified entity; or

[(d)] **c.** Owns or operates a qualified entity;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not for profit, or voluntary, that provides care, placement, or educational services for children, the elderly, or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

(8) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. A qualified entity may obtain a Missouri criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. A qualified entity may request a Missouri criminal record review and a national criminal

record review of a provider through an authorized state agency. No authorized state agency is required by this section to process Missouri or national criminal record reviews for a qualified entity, however, if an authorized state agency agrees to process Missouri and national criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized state agency on forms and in a manner approved by the highway patrol the following:

(1) Two sets of fingerprints of the provider **if a national criminal record review is requested;**

(2) A statement signed by the provider which contains:

(a) The provider's name, address, and date of birth;

(b) Whether the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;

(c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;

(d) The authority of the qualified entity to check the provider's criminal history;

(e) The right of the provider to review the report received by the qualified entity; and

(f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

5. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for internal purposes in determining the suitability of a provider. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized state agency or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

6. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section.

135.327. 1. Any [person] **individual** residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any [person] **individual** residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo, **or which shall be refunded in an amount in excess of the individual's tax liability for the year in which the credit is claimed.** Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers **claiming the credit** for nonrecurring adoption expenses **on behalf of a business entity's employee** in any one fiscal year shall not exceed two million dollars.

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

135.333. 1. **Except as provided in subsection 2 of section 135.327,** any amount of tax credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may be taken for each child adopted.

2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

167.020. 1. As used in this section, the term "homeless child" **or "homeless youth"** shall mean a person less than [twenty-one] **eighteen** years of age who lacks a fixed, regular and adequate nighttime residence, including a child **or youth** who:

(1) Is [living on the street, in a car, tent, abandoned building or some other form of shelter not designed as a permanent home;

(2) Is living in a community shelter facility;

(3) Is living in transitional housing for less than one full year] **sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;**

(2) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualify as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian; or

(2) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within three working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board on a request for a waiver under this subsection may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child **or youth**, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been

placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 7 of section 160.261, RSMo, from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

168.283. 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, nurses, and bus drivers.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section,

it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, RSMo, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

8. The state board of education may promulgate rules for criminal history background checks made pursuant to 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 the effective date of this section shall be invalid and void.

9. The provisions of this section shall become effective January 1, 2005.

191.748. Every hospital and any health care facility licensed in this state that provides obstetrical services shall require all new mothers to view a video on the dangers of shaking a baby and shaken baby syndrome before their discharge from the facility. Such video shall be approved by the department of health and senior services and shall not exceed ten minutes in length.

207.050. In every county there [shall] **may** be established a county family services commission to consist of four persons, two from each of the two major political parties, to be selected by the director of social services from a list submitted to the director of the department of social services by the county commission, consisting of double the number of appointments to be made. Each member of the county family services commission shall serve for a term of four years. Vacancies shall be filled in the same way in which the original appointment was made. [If the county commission fails or refuses to submit a list to the director of social services as required by this section for the appointment of members of the county family services commission within ten days after such appointments are to be made the director of social services shall make such appointments as may be necessary from a list prepared by the director of social services.] The duties of the county family services commission shall be advisory in nature with the power to examine the records of any case pending within their county and to make recommendations thereon. They shall serve without compensation, but shall be paid their traveling expenses and other necessary expense in the performance of their duty. No elective officer shall be appointed as a member of the county

family services commission, and upon becoming a candidate for any elective office, such member of the county family services commission shall forthwith forfeit his **or her** position on the commission. Duties imposed by this law upon the several county commissions shall be performed in the city of St. Louis by the board of estimate and apportionment.

207.060. 1. The [director of family services shall establish] **directors of the family support division and children's division shall jointly operate and maintain** a county office in every county, which may be in the charge of a county welfare director who shall have been a resident of the state of Missouri for a period of at least two years immediately prior to taking office and whose salary shall be paid from funds appropriated for the **family support division** [of family services] **and children's division.**

2. For the purpose of establishing and maintaining county offices, or carrying out any of the duties of the [division of family services] **divisions**, the [director of family services] **division directors** may enter into agreements with any political subdivision of this state, and as a part of such agreement, may accept moneys, services, or quarters as a contribution toward the support and maintenance of such county offices. Any funds so received shall be payable to the director of revenue and deposited in the proper special account in the state treasury, and become and be a part of state funds appropriated for the use of the [division of family services] **family support division and children's division.**

3. Other employees in the county offices shall be employed with due regard to the population of the county, existing conditions and purpose to be accomplished. Such employees shall be paid as are other employees of the [division of family services] **family support division and children's division.**

207.085. 1. **Any employee of the children's division, including supervisory personnel and private contractors with the division, who is involved with child protective services and purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division shall be dismissed if the violation directly results in serious physical injury or death, subject to the provisions of subsection 2 of this section. The provisions of this section shall apply to merit system employees of the division, as well as all other employees of the division and private contractors with the division, and upon a showing of a violation, such employees shall be dismissed for cause, subject to the provisions of subsection 2 of this section, and shall have the right of appeal pursuant to sections 36.380 and 36.390, RSMo. For purposes of this section, a "private contractor with the division" means any private entity or community action agency with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services.**

2. **The provisions of sections 660.019 to 660.021, RSMo, shall apply to this section. If**

an employee of the division or a private contractor with the division is responsible for assignments in excess of specified caseload standards established in section 660.020, RSMo, and the employee purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division and the violation directly results in serious physical injury or death, the employee's good faith efforts to follow the stated or written policies of the division, the rules promulgated by the division, or the state laws directly related to the child abuse and neglect activities of the division shall be a mitigating factor in determining whether an employee of the division or a private contractor with the division is dismissed pursuant to subsection 1 of this section.

208.647. Any child identified as having special health care needs, defined as a condition which left untreated would result in the death or serious physical injury of a child, that does not have access to affordable employer-subsidized health care insurance shall not be required to be without health care coverage for six months in order to be eligible for services under sections 208.631 to 208.657 and shall not be subject to the waiting period required under section 208.646, as long as the child meets all other qualifications for eligibility.

210.025. 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the **family support** division [of family services] shall:

(1) Determine if a [probable cause] finding of child abuse or neglect **by probable cause prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** involving the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145;

(2) Determine if the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) **Upon initial application, require the applicant to submit to fingerprinting and** request a criminal background check of the applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home pursuant to section 43.540, RSMo, **and section 210.487.**

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home:

(1) Has had a [probable cause] finding of child abuse or neglect **by probable cause prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** pursuant to section 210.145 **or section 210.152**;

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080, RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of [eighteen] **seventeen** who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home.

7. 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. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. 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, 1999, shall be invalid and void.

210.108. 1. As used in this section, "voluntary placement agreement" means a written agreement between the department of social services and a parent, legal guardian, or custodian of a child seventeen years of age or younger solely in need of mental health treatment. A voluntary placement agreement developed under a department of mental health assessment and certification of appropriateness authorizes the department of social services to administer the placement and care of a child while the parent, legal guardian, or custodian of the child retains legal custody.

2. The department of social services may enter into a cooperative interagency agreement with the department of mental health authorizing the department of mental health to administer the placement and care of a child under a voluntary placement agreement. The department of mental health is defined as a child placing agency under section 210.481 solely for children placed under a voluntary placement agreement.

3. Any function delegated from the department of social services to the department of mental health regarding the placement and care of children shall be administered and supervised by the department of social services to ensure compliance with federal and state law.

4. The departments of social services and mental health may promulgate rules under 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, 2004, shall be invalid and void.

210.109. 1. The children's division [of family services] shall establish a child protection system for the entire state.

2. The child protection system shall [seek to] promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments and providing services in response to reports of child abuse or neglect. The system shall [endeavor to] coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

3. In addition to any duties specified in section 210.145, in implementing the child protection system, the division shall:

- (1) Maintain a central registry;

(2) Receive reports and establish and maintain an information system operating at all times, capable of receiving and maintaining reports;

(3) Attempt to obtain the name and address of any person making a report in all cases, after obtaining relevant information regarding the alleged abuse or neglect, although reports may be made anonymously; **except that, reports by mandatory reporters under section 210.115, including employees of the children's division, juvenile officers, and school personnel shall not be made anonymously;**

(4) Upon receipt of a report, check with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, of any siblings, and the perpetrator, and relevant dispositional information regarding such previous reports;

(5) Provide protective or preventive services to the family and child and to others in the home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and stabilize the family whenever possible. The juvenile court shall cooperate with the division in providing such services;

(6) Collaborate with the community to identify comprehensive local services and assure access to those services for children and families where there is risk of abuse or neglect;

(7) Maintain a record which contains the facts ascertained which support the determination as well as the facts that do not support the determination;

(8) Whenever available and appropriate, contract for the provision of children's services through children's services providers and agencies in the community; except that the state shall be the sole provider of child abuse and neglect hotline services, the initial child abuse and neglect investigation, and the initial family assessment. In all court proceedings involving children in the custody of the division, the division may be represented in court by either division personnel or persons with whom the division contracts with for such representation. All children's services providers and agencies shall be subject to criminal background checks pursuant to chapter 43, RSMo, and shall submit names of all employees to the family care safety registry.

As used in this subsection, "report" includes any telephone call made pursuant to section 210.145.

[4. By January 1, 1998, the division of family services shall submit documentation to the speaker of the house of representatives and the president pro tem of the senate on the success or failure of the child protection system established in this section. The general assembly may recommend statewide implementation or cancellation of the child protection system based on the success or failure of the system established in this section.

5. The documentation required by subsection 4 of this section shall include an independent evaluation of the child protection system completed according to accepted, objective research principles.]

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 **prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** 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 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 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. **Any persons placed on the registry prior to the effective date of this section, shall remain on the registry for the duration of time required by section 210.152;**

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

(4) **"Children's services providers and agencies", any public or private entity or community action agency with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services;**

(5) "Director", the director of the Missouri **children's** division [of family] **within the department of social** services;

[(5)] (6) "Division", the Missouri **children's** division [of family] **within the department of social** services;

(7) **"Emergency", a real and substantive risk of sexual abuse, imminent danger of death, or serious physical harm;**

[(6)] (8) "Family assessment and services", an approach to be developed by the **children's** 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)] (9) "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

[(8)] (10) "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)] (11) "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;

[(10)] (12) "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;

[(11)] (13) **"Preponderance of the evidence", that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not;**

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

[(12)] (15) "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.

210.111. By January 1, 2005, the children's division shall identify all children in the custody of the division currently receiving foster care services and shall report to the general assembly the type of foster care being provided, including but not limited to care provided in a licensed foster care home, institutional setting, residential setting, independent living setting, or kinship care setting, and the status of all such children. Nothing in this section shall be construed as requiring the division to disclose the identity or precise location of any child in the custody of the division.

210.112. 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

- (1) The safety and welfare of children is paramount;**
- (2) Services shall be provided on a competitive basis where public and private providers of direct services to children and their families will be evaluated in a uniform and consistent basis;**
- (3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and**
- (4) Any provider of direct services to children and families shall have the appropriate**

training, education, and competencies to provide the highest quality of services possible.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. In implementing the contracts, direct services for children and their families currently provided by the children's division, except for services related to the child abuse and neglect hotline, investigations of alleged child abuse and neglect, and initial family assessments, shall be contracted for by a competitive bid process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

(1) A proven record of providing child welfare services within the state of Missouri; and

(2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, mentoring, intensive in-home services, foster care services, adoption services, relative care case management, independent living services, and family reunification services.

Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall provide the following criteria:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved; and

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The highest quality of services possible shall be achieved through a system of incentives for reaching and exceeding clearly defined goals and outcome measures;

(6) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(7) Payment to the children's services providers and agencies shall be made in reasonable amounts based on the costs of services and responsibilities necessary to execute the contract. Contracts may provide financial incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision. This subdivision shall only apply to contracts for family-centered services, family preservation, and case management services.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall

be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

- (1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;
- (2) Services authorized and necessary to facilitate the outcome target;
- (3) Timeframes in which services will be delivered; and
- (4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, mentoring, intensive in-home services, foster care services, adoption services, relative care case services, independent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

- (1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and
- (2) Any recommendations regarding the continuation or possible statewide implementation of such project; and
- (3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

7. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section, and pursuant to this section, shall define implementation plans and dates. 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 the effective date of this section shall be invalid and void.

210.113. It is the intent and goal of the general assembly to have the department attain accreditation by the Council for Accreditation for Families and Children's Services within five

years of the effective date of this section.

210.117. No child taken into the custody of the state shall be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of chapter 568, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or chapter 568, RSMo, except for section 568.040, RSMo, if committed in Missouri.

210.127. 1. If the location or identity of the natural parent or parents of a child in the custody of the division is unknown, the children's division shall utilize all reasonable and effective means available to conduct a diligent search for the biological or adoptive parent or parents of such child.

2. For purposes of this section, "diligent search" means the efforts of the division, or an entity under contract with the division, to locate a biological parent whose identity or location is unknown, initiated as soon as the division is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

210.145. 1. The division shall [establish and maintain] develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: 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 crimes under 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, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. The division shall immediately communicate [such report] **all reports that merit investigation** to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

[3.] **4.** The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation[, or, which, if true, would constitute a suspected violation of any of the following: 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 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, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall] **and** provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

[4.] **5.** The local office of the division shall cause an investigation or family assessment and services approach to be initiated [immediately or no later than within twenty-four hours of receipt of the report from the division] **in accordance with the protocols established in subsection 2 of this section**, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. **If the abuse is alleged to have occurred in a school or child-care facility** the division shall not meet with the child [at the child's school or child-care facility] **in the same school building or child-care facility building where abuse of such child is alleged to have occurred.** When the child is reported absent from the residence, the location and

the well-being of the child shall be verified. **For purposes of this subsection, "child-care facility" shall have the same meaning as such term is defined in section 210.201.**

[5.] **6.** The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

[6.] **7.** The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

[7.] **8.** When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

[8.] **9.** Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

[9.] **10.** Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

11. For all family support team meetings and other team meetings involving an alleged victim of child abuse or neglect, the biological or adoptive parents, legal counsel for the biological or adoptive parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged

perpetrators, or other community informal or formal service providers that provide significant support to the child and family may also be invited at the discretion of the family. In addition, the biological or adoptive parents, the legal counsel for the biological or adoptive parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such meetings. Once a person is provided notice of or attends such meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

[10.] **12.** If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

[11.] **13.** If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

[12.] **14.** Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless

good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

[13.] **15.** A person required to report under section 210.115 to the division shall be informed by the division of his **or her** right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

16. In addition to the requirements of subsection 15 of this section, for any report of child abuse or neglect made to the division which is not made anonymously, the division shall, within ten days of making a determination, inform the reporter of whether the division determined the report to be substantiated or unsubstantiated. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.

[14.] **17.** In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However[,]:

(1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; **and**

(2) **The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation and determines whether the report is substantiated or unsubstantiated. If the children's division determines the report to be unsubstantiated, the court shall resume the custody proceedings and any information or investigative records regarding such report shall not be admissible. If the children's division determines the report to be substantiated, the court shall request the investigative records pursuant to section 210.150 and determine the relevance, if any, and admissibility of the information contained in the investigative records before continuing the custody proceeding.**

[15.] **18.** In any judicial proceeding involving the custody of a child where the court

determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

[16.] **19.** The **children's** division [of family services] is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[17.] **20.** 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.

210.147. 1. Except as otherwise provided by law, all information provided at any meeting or administrative hearing held in relation to the removal of a child from the child's home is confidential; except that:

(1) Any parent or party may waive confidentiality for himself or herself to the extent permitted by law; and

(2) Any parent of the child shall have an absolute right to video and/or audio tape such meetings or hearings to the extent permitted by law; and

(3) No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such meetings or hearings. Any person, other than a parent or party, who does not agree to maintain confidentiality of the information provided at such meetings or hearings may be excluded from all or any portion of such meetings or hearings during which such person is not testifying or providing information.

2. The division shall be responsible for developing a form to be signed at the conclusion of any meeting or administrative hearing held in relation to a child removed from the home and placed in the custody of the state that reflects the core commitments made by the children's division or the convenor of the meeting and the parents of the child or any other party. Beginning on the effective date of this section, the form shall be used and shall, at a minimum, contain the following provisions:

"CORE COMMITMENTS OF THE MEETING

(1) Location of the child (not the specific address): (Circle One)

Remain in Current Placement

New Placement

(2) Visitation Schedule for the Child's Family: (Circle One)

Supervised

Unsupervised

(3) Actions Required of the Parents of the Child:

1.....

2.....

3.....

(4) **Additional core commitments (if any):**

.....

.....

The core commitments stated above have been discussed at the meeting and are true and accurate statements of the core commitments agreed to by the parties on this day of, 20....

Unofficial

.....
Parent 1 or Party 1
.....

Parent 2 or Party 2

.....
**Division Representative/
Convenor"**

The parents and any other party shall be provided with a copy of the signed document.

210.150. 1. The **children's** division [of family services] shall ensure the confidentiality of all reports and records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local offices, the central registry, and other appropriate persons, officials, and institutions pursuant to sections 210.109 to 210.183. To protect the rights of the family and the child named in the report as a victim, the **children's** division [of family services] shall establish guidelines which will ensure that any disclosure of information concerning the abuse and neglect involving that child is made only to persons or agencies that have a right to such information. The division may require persons to make written requests for access to records maintained by the division. The division shall only release information to persons who have a right to such information. The division shall notify persons receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the purpose for which the information is released and of the penalties for unauthorized dissemination of information. Such information shall be used only for the purpose for which the information is released.

2. Only the following persons shall have access to investigation records contained in the central registry:

- (1) Appropriate federal, state or local criminal justice agency personnel, or any agent of such entity, with a need for such information under the law to protect children from abuse or neglect;
- (2) A physician or a designated agent who reasonably believes that the child being examined may be abused or neglected;
- (3) Appropriate staff of the division and of its local offices, including interdisciplinary teams

which are formed to assist the division in investigation, evaluation and treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services for a child referred to the provider;

(4) Any child named in the report as a victim, or a legal representative, or the parent, if not the alleged perpetrator, or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide a method for confirming or certifying that a designee is acting on behalf of a subject;

(5) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or neglect or child protective proceedings **or child custody proceedings**, and other federal, state and local government entities, or any agent of such entity, with a need for such information in order to carry out its responsibilities under the law to protect children from abuse or neglect;

(7) Any person engaged in a bona fide research purpose, with the permission of the director; provided, however, that no information identifying the child named in the report as a victim or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the child named in the report as a victim or, if the child is less than eighteen years of age, through the child's parent, or guardian provides written permission;

(8) Any child-care facility; child-placing agency; residential-care facility, including group homes; juvenile courts; public or private elementary schools; public or private secondary schools; or any other public or private agency exercising temporary supervision over a child or providing or having care or custody of a child who may request an examination of the central registry from the division for all employees and volunteers or prospective employees and volunteers, who do or will provide services or care to children. Any agency or business recognized by the division [of family services] or business which provides training and places or recommends people for employment or for volunteers in positions where they will provide services or care to children may request the division to provide an examination of the central registry. Such agency or business shall provide

verification of its status as a recognized agency. Requests for examinations shall be made to the division director or the director's designee in writing by the chief administrative officer of the above homes, centers, public and private elementary schools, public and private secondary schools, agencies, or courts. The division shall respond in writing to that officer. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect;

(9) Any parent or legal guardian who inquires about a child abuse or neglect report involving a specific person or child-care facility who does or may provide services or care to a child of the person requesting the information. Request for examinations shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect. The response shall be given within ten working days of the time it was received by the division;

(10) Any person who inquires about a child abuse or neglect report involving a specific child-care facility, child-placing agency, residential-care facility, public and private elementary schools, public and private secondary schools, juvenile court or other state agency. The information available to these persons is limited to the nature and disposition of any report contained in the central registry and shall not include any identifying information pertaining to any person mentioned in the report;

(11) Any state agency acting pursuant to statutes regarding a license of any person, institution, or agency which provides care for or services to children;

(12) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(13) Any person who is a tenure-track or full-time research faculty member at an accredited institution of higher education engaged in scholarly research, with the permission of the director. Prior to the release of any identifying information, the director shall require the researcher to present a plan for maintaining the confidentiality of the identifying information. The researcher shall be prohibited from releasing the identifying information of individual cases.

3. Only the following persons shall have access to records maintained by the division pursuant to section 210.152 for which the division has received a report of child abuse and neglect and which the division has determined that there is insufficient evidence or in which the division proceeded with the family assessment and services approach:

(1) Appropriate staff of the division;

(2) Any child named in the report as a victim, or a legal representative, or the parent or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent. The names or other identifying information of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide for a method for confirming or certifying that a designee is acting on behalf of a subject;

(3) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(4) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(5) Appropriate criminal justice agency personnel or juvenile officer;

(6) Multidisciplinary agency or individual including a physician or physician's designee who is providing services to the child or family, with the consent of the parent or guardian of the child or legal representative of the child;

(7) Any person engaged in bona fide research purpose, with the permission of the director; provided, however, that no information identifying the subjects of the reports or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the subject, or if a child, through the child's parent or guardian, provides written permission.

4. Any person who knowingly violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the information system or the central registry and in reports and records made pursuant to sections 210.109 to 210.183, shall be guilty of a class A misdemeanor.

5. Nothing in this section shall preclude the release of findings or information about cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of the director of the department of social services, based upon a review of the potential harm to other children within the immediate family.

210.152. 1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by

the division and removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) For investigation reports initiated by a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for [ten] **five** years from the date of the report. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for two years from the date of the report. Such report shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such two-year period, the identifying information shall be removed from the records of the division and destroyed;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined **by a probable cause finding prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** that [there is probable cause to suspect] abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 3 of this section; or

(2) [There is insufficient probable cause of abuse or neglect.] **That the division has not made a probable cause finding or determined by a preponderance of the evidence that abuse or neglect exists.**

3. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

4. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination [is] **was** supported by evidence of probable cause **prior to the effective date of this section or is supported by a preponderance of the evidence after the effective date of this section** and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

5. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the decision of the child abuse and neglect review board decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

6. In any such action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

210.153. 1. There is hereby created in the department of social services the "Child Abuse and Neglect Review Board", which shall provide an independent review of child abuse and neglect determinations in instances in which the alleged perpetrator is aggrieved by the decision of the **children's** division [of family services]. The division may establish more than one board to assure timely review of the determination.

2. The board shall consist of nine members, who shall be appointed by the governor with the advice and consent of the senate, and shall include:

- (1) A physician, nurse or other medical professional;
- (2) A licensed child or family psychologist, counselor or social worker;
- (3) An attorney who has acted as a guardian ad litem or other attorney who has represented a subject of a child abuse and neglect report;
- (4) A representative from law enforcement or a juvenile office.

3. Other members of the board may be selected from:

- (1) A person from another profession or field who has an interest in child abuse or neglect;
- (2) A college or university professor or elementary or secondary teacher;
- (3) A child advocate;
- (4) A parent, foster parent or grandparent.

4. The following persons may participate in a child abuse and neglect review board review:

(1) Appropriate **children's** division [of family services] staff and legal counsel for the department;

(2) The alleged perpetrator, who may be represented pro se or be represented by legal counsel. The alleged perpetrator's presence is not required for the review to be conducted. The alleged perpetrator may submit a written statement for the board's consideration in lieu of personal appearance; and

(3) Witnesses providing information on behalf of the child, the alleged perpetrator or the department. Witnesses shall only be allowed to attend that portion of the review in which they are presenting information.

5. The members of the board shall serve without compensation, but shall receive reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties.

6. All records and information compiled, obtained, prepared or maintained by the child abuse and neglect review board in the course of any review shall be confidential information.

7. The department shall promulgate rules and regulations governing the operation of the child abuse and neglect review board except as otherwise provided for in this section. These rules and regulations shall, at a minimum, describe the length of terms, the selection of the chairperson, confidentiality, notification of parties and time frames for the completion of the review.

8. Findings of probable cause to suspect **prior to the effective date of this section or findings by a preponderance of the evidence after the effective date of this section of** child abuse and neglect by the division which are substantiated by court adjudication shall not be heard by the child abuse and neglect review board.

210.160. 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, **and upon appointment by the court to a case, shall be informed of and have the right to attend any and all team meetings involving the child.** Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. **The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are appointed to represent.** The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. **The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are designated to represent.** The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, **and upon designation by the court to a case, shall be informed of and have the right to attend any and all meetings involving the child.** Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning **and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child.** A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

210.183. 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the **Children's** Division [of Family Services]

pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

["]The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

["]This investigation is required by law to be conducted in order to enable the **Children's Division** [of Family Services] to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services.

["]The division shall make every reasonable attempt to complete the investigation within thirty days. Within ninety days you will receive a letter from the Division which will inform you of one of the following:

["](1) That the Division has found insufficient evidence of abuse or neglect; or

["](2) That there appears to be [probable cause] **by a preponderance of the evidence reason** to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

["]If the Division finds [there is probable cause] **by a preponderance of the evidence reason** to believe child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

["]If you disagree with the determination of the Division and feel that there is insufficient [probable cause to believe] **reason to believe by a preponderance of the evidence that** abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the parent of the child with the following information:

(1) The purpose of the contact with the family;

(2) The name of the person responding and his **or her** office telephone number;

(3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

210.187. 1. The task force on children's justice established by the children's division within the department of social services to recommend improvements in the area of child abuse and neglect services and provide funding for such recommendations shall provide an independent review of policies and procedures of state and local child protective services agencies, and where appropriate, specific cases, and shall evaluate the extent to which the

agencies are effectively discharging their child protection responsibilities.

2. Consistent with the task force's function of reviewing applications for federal grant moneys available to the state under the Children's Justice Act which are designed to assist eligible states in implementing programs for the handling, investigation, and prosecution of child abuse cases, the task force shall consider the awarding of grant moneys which address the issues that arise from the independent review conducted by the task force pursuant to subsection 1 of this section. As authorized by the Children's Justice Act, grant moneys shall be awarded for the following categories:

(1) Improvements to the investigative, administrative, and judicial handling of cases of child abuse and neglect;

(2) Experimental, model, and demonstration programs for testing innovative approaches and techniques to improve the prompt and successful resolution of court proceedings or enhance the effectiveness and judicial administration action in child abuse and neglect cases; and

(3) Reform of state laws, rules, protocols, and procedures to provide comprehensive protection for children from abuse and neglect.

3. The members of the task force shall not disclose to any person or government official any identifying information concerning a specific child protection case with respect to which the task force is providing information and shall not make public other information unless authorized by federal or state law.

4. The task force shall be provided:

(1) Access to information on cases that the task force desires or is requested to review if such information is necessary for the task force to carry out its functions pursuant to this section; and

(2) Upon request, assistance from the department of social services for the performance of the task force's duties.

210.188. Beginning February 1, 2006, and each February first thereafter, the department of social services shall submit a report to the governor and the general assembly that includes the following information for the previous calendar year:

(1) The number of children who were reported to the state of Missouri during the year as abused or neglected;

(2) Of the number of children described in subdivision (1) of this section, the number with respect to whom such reports were substantiated or unsubstantiated;

(3) Of the number of children described in subdivision (2) of this section:

(a) The number that did not receive or refused services during the year under a children's division program;

(b) The number that did receive services during the year under a state program; and

(c) The number that were removed from their families during the year by disposition

of the case;

(4) **The number of families that received preventive services from the state or a private service provider during the year;**

(5) **The number of deaths in the state during the year resulting from child abuse or neglect;**

(6) **Of the number of children described in subdivision (5) of this section, the number of children who were in foster care or received services from a private service provider;**

(7) **The number of child protective services workers responsible for the intake and screening of reports filed during the year;**

(8) **The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect;**

(9) **The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made;**

(10) **The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated during the year;**

(11) **The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and**

(12) **The number of children in foster care who have been adopted.**

210.201. As used in sections 210.201 to 210.257, the following terms mean:

(1) "Child", an individual who is under the age of seventeen;

(2) "Child-care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. **If a facility or program is exempt from licensure based on the school exception established in this subdivision, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status; except that, under no circumstances shall any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or**

guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization be required to submit documentation annually to the department to verify its licensure-exempt status;

(3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

(4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care facility is located is exempt from taxation because it is used for religious purposes.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children.

For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

(2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;

(3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;

(4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;

(5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;

(6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760, RSMo, which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo; and

(7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall

be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by [the] a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

210.482. 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen business days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home, other than persons within the second degree of consanguinity and affinity to the child, shall report to a local law enforcement agency for the purpose of providing two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home shall, within fifteen business days, submit to the juvenile court or the children's division two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau

of Investigation for searching the federal criminal history files.

4. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

5. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home is listed on the child abuse and neglect registry.

2. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

3. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

4. The division may promulgate rules that are necessary to implement the provisions 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 the effective date of this section shall be invalid and void.

210.518. 1. The department of social services, the department of mental health, the

department of elementary and secondary education and all subdivisions thereof shall develop and implement through interagency agreement a common system of classification for assessing the needs of a child and common terminology to describe the services to be provided to the child. The agreement must establish a standardized form and set of records to be kept for such children which shall include, if applicable to such child, any individualized education plan, diagnostic summary, school history, school records, medical history, court records, placement orders and any criminal history. The agreement shall be adopted and in effect on or before July 1, 1999.

2. To facilitate the coordination of services being provided to children, interagency meetings pursuant to subsection 1 of this section shall be held as frequently as appropriate to address and review any actions being taken by agency personnel involved in the provision of services to a child. The agencies shall document which staff members attended such meetings. If any services for the child are provided through contracted providers, such providers shall be included in the meetings described in this section.

210.535. The department of social services, shall:

(1) Submit amendments to state plans and seek available waivers from the federal Department of Health and Human Services to enhance federal reimbursement and federal administrative reimbursement for foster care and adoption assistance under Title IV-E of the Social Security Act and Title XIX of the Social Security Act; and

(2) Take the necessary steps to qualify the state for receipt of any federal block grant moneys which are or will be available for foster care and adoption assistance.

210.542. 1. The children's division shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.

2. The children's division shall provide performance-based criteria for the evaluation of licensed foster parents and may establish by rule the frequency of such evaluation.

210.565. 1. Whenever a child is placed in a foster home **and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child**, the children's division [of family services] shall give [preference and first consideration for] foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

2. As used in this section, the term "relative" means a person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. The preference for placement with relatives created by this section shall only apply where the court finds that placement with such relatives is [in] **not contrary to** the best interest of the child considering all circumstances. **If the court finds that it is contrary to the best interest of a child to be placed with relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other**

than relatives.

4. The age of the child's relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such relative.

5. For any native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

210.760. **1.** In making placements in foster care the **children's** division [of family services] shall:

- (1) Arrange for a preplacement visit of the child, except in emergencies;
- (2) Provide full and accurate medical information and medical history to the persons providing foster care at the time of placement;
- (3) Give a minimum of five days advance notice to the persons providing foster care before removing a child from their care;
- (4) Provide the persons giving foster care with a written statement of the reasons for removing a child at the time of the notification required by this section; [and]
- (5) **Notify the child's parent or legal guardian that the child has been placed in foster care; and**
- (6) Work with the [natural] parent **or legal guardian of the child**, through services available, in an effort to return the child to his **or her** natural home, if at all possible, or to place the child in a permanent adoptive setting, in accordance with the division's goals to reduce the number of children in long-term foster care and reestablish and encourage the family unit.

2. Except as otherwise provided in section 210.125, no child shall be removed from school prior to the end of the official school day for that child for placement in foster care without a court order specifying that the child shall be removed from school.

210.762. 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a team meeting within twenty-four hours following the status conference held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a team meeting within seventy-two hours.

2. The biological or adoptive parents, the legal counsel for the biological or adoptive parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all team meetings. The team meeting may include such other persons whose attendance at the meeting may assist the team

in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The children's division shall be responsible for including such form with the case records of the child.

210.903. 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect **prior to the effective date of this section or findings of abuse and neglect by a preponderance of the evidence after the effective date of this section** pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259;

(7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo; and

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.909. 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect **prior to the effective**

date of this section or a finding of child abuse or neglect by a preponderance of the evidence after the effective date of this section involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo; and

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo; and

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936. 3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or

support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the

juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031, RSMo, involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031, RSMo, before making a report of such a violation. Any report of a violation of section 167.031, RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.

211.032. 1. When a child or person seventeen years of age, alleged to be in need of care and

treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into custody, the juvenile or family court shall **make reasonable efforts to** notify the [parties of the right to have a protective custody hearing. Such notification shall be in writing.] **biological or adoptive parents, the foster parents, the legal guardian or custodian, and the grandparents of the child, the children's division worker, the child abuse and neglect hotline worker, and the guardian ad litem or volunteer advocate for the child of the specific date, time, and place that a status conference will be held by the court. Such status conference shall be a closed conference and shall be held within seventy-two hours of the child being taken into custody, excluding Saturdays, Sundays, and legal holidays. The inability to provide notice to any of the persons listed in this subsection after reasonable efforts have been made or the absence of any such persons at the status conference shall not preclude the court from conducting the status conference as scheduled. The supreme court shall establish procedures for the status conference held pursuant to this subsection which shall include, but not be limited to, the following issues:**

- (1) **Whether the child can immediately be returned to the child's home. If a child could be returned to the home if support services are provided, such services shall be ordered;**
- (2) **Appointment of a guardian ad litem or volunteer advocate for the child;**
- (3) **Appointment of legal counsel;**
- (4) **Whether paternity has been established or needs to be established;**
- (5) **Service of process and the location of any absent parent;**
- (6) **Whether reasonable efforts were made and documented by the division prior to the removal or emergency removal of the child and whether the safety issue justifying custody is documented;**
- (7) **A contrary to welfare finding;**
- (8) **Placement of the child and the availability of relatives of the child as the preferred placement;**
- (9) **Whether the removal of the child necessitates a placement which will cause a disruption in the school currently attended by such child;**
- (10) **Providing for visitation by the child's parents, siblings, or other family members where appropriate;**
- (11) **The status of any temporary assistance for needy families benefits, Social Security benefits, or child support that is being received on behalf of the child;**
- (12) **Providing for any necessary evaluations, including medical or psychological evaluations; and**
- (13) **Providing the parents with information and instructions on the nature and content of the core commitment form contained in subsection 2 of section 210.147, RSMo.**

A protective custody hearing may be requested by a party at a status conference, and if

requested, a date for such hearing shall be scheduled pursuant to subsection 2 of this section at the time of the status conference whenever possible; except that, if neither of the parents of the child are present at the status conference because of incarceration, institutionalization, or hospitalization of the parents, a protective custody hearing may be scheduled if necessary to provide the legal rights and protections of the parents and, if scheduled, shall be held within fourteen days of the date of the status conference in accordance with subsection 2 of this section.

2. Upon request from any party **or upon request by a party during a status conference**, the court shall hold a protective custody hearing[. Such hearing shall be held within three] **within fourteen** days of the request for a hearing, excluding Saturdays, Sundays and legal holidays. **No continuances shall be granted for such protective custody hearing except upon a written motion for cause filed and signed by the party requesting the continuance and such party's attorney if represented by counsel.**

3. The court shall hold an adjudication hearing no later than sixty days after the child has been taken into custody. The court shall notify the parties in writing of the specific date, time, and place of such hearing. If at such hearing the court determines that sufficient cause exists for the child to remain in the custody of the state, the court shall conduct a dispositional hearing no later than ninety days after the child has been taken into custody and shall conduct review hearings regarding the reunification efforts made by the division every ninety to one hundred twenty days for the first year the child is in the custody of the division. After the first year, review hearings shall be held as necessary, but in no event less than once every six months for as long as the child is in the custody of the division.

4. At [the protective custody hearing] **all hearings held pursuant to this section** the court may receive testimony and other evidence relevant to the necessity of detaining the child out of the custody of the parents, guardian or custodian.

5. **A court shall be considered in compliance with the time requirements for holding hearings under this section if such hearings are initiated within the time specified. Failure to hold and complete a status conference within the time specified in this section shall result in a dismissal of the case without prejudice by the court. If a case is dismissed without prejudice under this subsection, the division shall not retain custody of the child for more than twenty-four hours after such dismissal unless the case is refiled with the court within such twenty-four hour period.**

6. If the placement of any child in the custody of the children's division will result in the child attending a school other than the school the child was attending when taken into custody:

- (1) The child's records from such school shall automatically be forwarded to the school that the child is transferring to upon notification within two business days by the division; or
- (2) Upon request of the foster family, the guardian ad litem, or the volunteer advocate

and whenever possible, the child shall be permitted to continue to attend the same school that the child was enrolled in and attending at the time the child was taken into custody by the division. The division, in consultation with the department of elementary and secondary education, shall establish the necessary procedures to implement the provisions of this subsection.

211.038. No child under the jurisdiction of the juvenile court shall be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of chapter 568, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or chapter 568, RSMo, except for section 568.040, RSMo, if committed in Missouri.

211.059. 1. When a child is taken into custody by a juvenile officer or law enforcement official, with or without a warrant for an offense in violation of the juvenile code or the general law which would place the child under the jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection 1 of section 211.031, the child shall be advised prior to questioning:

- (1) That he has the right to remain silent; and
- (2) That any statement he does make to anyone can be and may be used against him; and
- (3) That he has a right to have a parent, guardian or custodian present during questioning;

and

- (4) That he has a right to consult with an attorney and that one will be appointed and paid for him if he cannot afford one.

2. If the child indicates in any manner and at any stage of questioning pursuant to this section that he does not wish to be questioned further, the officer shall cease questioning.

3. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, including any interactions with the child by the children's division, the following shall apply:

- (1) If the child indicates in any manner at any stage of questioning that the child does not wish to be questioned any further, or that the child wishes to have his or her parent, legal guardian, or custodian if such parent, guardian, or custodian is not the alleged perpetrator, or his or her attorney present during questioning, the questioning of the child shall cease; and

- (2) Notwithstanding any prohibition of hearsay evidence, all video or audio recordings of any meetings, interviews, or interrogations conducted by the state of a child who is in the custody of the state, whether such meeting, interview, or interrogation was conducted prior to or after the child was taken into the custody of the state, shall be presumed admissible as evidence in any court or administrative proceeding involving the child. Only upon a showing by clear and convincing evidence that such a video or audio recording lacks sufficient indicia of reliability shall such recording be inadmissible.

211.171. 1. The procedure to be followed at the hearing shall be determined by the juvenile court judge and may be as formal or informal as he or she considers desirable, consistent with constitutional and statutory requirements. The judge may take testimony and inquire into the habits, surroundings, conditions and tendencies of the child and the family to enable the court to render such order or judgment as will best promote the welfare of the child and carry out the objectives of this chapter.

2. The hearing may, in the discretion of the court, proceed in the absence of the child and may be adjourned from time to time.

3. The current foster parents of a child, or any preadoptive parent or relative currently providing care for the child, shall be provided with notice of, and an opportunity to be heard in, any [permanency or other review] hearing to be held with respect to the child. This subsection shall not be construed to require that any such foster parent, preadoptive parent or relative providing care for a child be made a party to the case solely on the basis of such notice and opportunity to be heard.

4. All cases of children shall be heard separately from the trial of cases against adults.

5. Stenographic notes or an authorized recording of the hearing shall be required if the court so orders or, if requested by any party interested in the proceeding.

6. The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court except in cases where the child is accused of conduct which, if committed by an adult, would be considered a class A or B felony; or for conduct which would be considered a class C felony, if the child has previously been formally adjudicated for the commission of two or more unrelated acts which would have been class A, B or C felonies, if committed by an adult.

7. The practice and procedure customary in proceedings in equity shall govern all proceedings in the juvenile court; **except that, the court shall not grant a continuance in such proceedings absent compelling extenuating circumstances, and in such cases, the court shall make written findings on the record detailing the specific reasons for granting a continuance.**

8. The court shall allow the victim of any offense to submit a written statement to the court. The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement, unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child.

211.181. 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or

in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age;

(6) The department of social services, in conjunction with the department of mental health, shall apply to the United States Department of Health and Human Services for such federal waivers as required to provide services for such children, including the acquisition of community-based services waivers.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his **or her** own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems

reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

211.319. 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be open to the public. The court, on its own motion, may exclude for good cause shown any person or persons from the proceedings to protect the welfare and best interests of the child and for exceptional circumstances. Any party to a juvenile court proceeding referred to in this subsection, except the state, may file a motion requesting that the general public be excluded from the proceeding or any portion of the proceeding. Upon the filing of such motion, the court shall hear arguments by the parties, but no evidence, and shall make a determination whether closure is in the best interest of the parties or whether it is in the public interest to deny such motion. The court shall make a finding on the record when a motion to close a hearing pursuant to this section is made and heard by the court.

2. Notwithstanding the provisions of subsection 1 of this section, the general public

shall be excluded from all juvenile court proceedings referred to in subsection 1 of this section during the testimony of any child or victim and only such persons who have a direct interest in the case or in the work of the court will be admitted to the proceedings.

3. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the children's division, social histories, home studies, and police reports and law enforcement records. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of any child involved.

4. For records made available to the public pursuant to this section:

(1) The identity of any child involved except the perpetrator shall not be disclosed and all references in such records to the identity of any child involved except the perpetrator shall be redacted prior to disclosure to the public; and

(2) All information that may identify or lead to the disclosure of the identity of a reporter of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not be disclosed to the public.

5. The provisions of this section shall apply to juvenile court proceedings and records specified in this section in which the initial pleadings are filed on or after July 1, 2005.

302.272. 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus permit under this section and complied with the pertinent rules and regulations of the department of revenue. A school bus permit shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the permit; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be limited to, a written skills examination of applicable laws, rules and procedures, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial

Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus permit shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus permit shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed permit. The director may waive the written skills examination on renewal of a school bus permit upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus permit shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this section, the director of revenue shall issue a temporary school bus permit to the applicant until such time as a permanent school bus permit shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus permit to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge.

6. The [department of social services or the] Missouri highway patrol[, whichever has access to applicable records,] shall provide a record of clearance or denial of clearance for any applicant

for a school bus permit for the [convictions] **offenses** specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The [department of social services or the] Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the [department of social services or the] Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. Beginning January 1, 2005, the director shall request that the department of social services determine whether the applicant is listed on the child abuse and neglect registry and shall require the applicant to submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

8. The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

9. If, as a result of the criminal history background check required by this section, it is determined that an applicant has been charged with, pled guilty or nolo contendere to, or been found guilty of a child abuse offense or sexual offense under the laws of this state, any other state, the United States, or any other country, regardless of imposition of sentence, the director of revenue shall not issue or renew a school bus permit to such applicant. If, as a result of the criminal history background check required by this section, it is determined that an applicant has been charged with, pled guilty or nolo contendere to, or been found guilty of any other crime under the laws of this state, any other state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to any school district requesting such information from the department regarding any bus driver applying for a position with or employed by a school or school district.

10. The director may adopt any rules and regulations necessary to carry out the provisions 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 the effective date of this section, shall be invalid and void.

402.199. 1. The general assembly hereby finds and declares the following:

(1) It is an essential function of state government to provide basic support for persons with a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease;

(2) The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to rely upon the government to provide such support;

(3) Families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(4) The cost of medical, social or other supplemental services is often provided by families and friends of persons with mental or physical impairments, for the lifetime of such persons;

(5) It is in the best interest of the people of this state to encourage, enhance and foster the ability of families and friends of Missouri residents **and residents of adjacent states** with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social or other supplemental services for such persons;

(6) Permitting and assisting families and friends of Missouri residents **and residents of adjacent states** with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide medical, social or other supplemental services for such persons as necessary and desirable for the public health, safety and welfare of this state.

2. In light of the findings and declarations described in subsection 1 of this section, the general assembly declares the purpose of the Missouri family trust to be the encouragement, enhancement and fostering of the provision of medical, social or other supplemental services for persons with a mental or physical impairment by family and friends of such persons.

402.200. As used in sections 402.199 to 402.220, the following terms mean:

(1) "Board of trustees", the Missouri family trust board of trustees;

(2) "Charitable trust", the trust established to provide benefits for individuals, as set forth in section 402.215;

(3) "Department", the department of mental health;

(4) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(5) "Life beneficiary" or "**beneficiary**", a designated beneficiary of the Missouri family trust;

(6) "Net income", the earnings received on investments less administrative expenses and fees;

(7) "Principal balance", the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;

(8) "Requesting party", the party desiring arbitration;

(9) "Responding party", the other party in arbitration of a dispute regarding benefits to be provided by the trust;

(10) "Successor trust", the trust established upon distribution by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in section 402.215;

(11) "Trust", the Missouri family trust established pursuant to sections 402.200 to 402.220;

(12) "Trustee", a member of the Missouri family trust board of trustees.

402.205. 1. The families, friends and guardians of persons who have a disability or are eligible for services provided by the department of mental health, or both, may participate in a trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility **of Missouri residents** for assistance under chapter 208, RSMo.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

402.215. 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust **and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which provide services to Missouri residents with a disability.** The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code **of 1986, as amended.**

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo, and other fiduciaries, [other than directly] **and, subject to the provisions of subdivision (11) of this subsection**, from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries.

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee; provided, however, that court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

(3) The [trust] **cotrustee**, with the consent of the [cotrustee] **trust**, shall **from time to time, but not less frequently than** annually [agree on] **determine** the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. [In the event that the trust and the donor, serving as the cotrustee, shall be unable to agree either on the amount of income or principal or income and principal to be used for or the benefits to be provided, then none of the income or principal shall be used.] In the event that the trust and the cotrustee[, other than the donor,] shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration **which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association**. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the

requesting and responding parties' arbitrators. The three arbitrators shall meet, **conduct a hearing**, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. **Judgment on the arbitrators' award may be entered in any court of competent jurisdiction.**

(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth [below] **in subdivision (7) of this subsection**, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income, shall be distributed to the charitable trust.

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust, [except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo,] shall [move from the state of Missouri or otherwise] cease to be eligible for services provided by the department of mental health and neither the donor nor the then acting cotrustee, **except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo**, shall revoke or withdraw [all] **the applicable portion, as set forth in subdivision (7) of this subsection**, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth [herein] **in subdivision (7) of this subsection**, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision [(10)] **(12)** of this subsection.

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have

received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust.

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. [The balance, if any, of the principal balance, together with all] **Any** undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance, together with all undistributed income shall be distributed to the charitable trust. **If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust.**

(10) In the event the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid

on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. **If there are no heirs**, the balance, if any, of the principal balance, together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law[.] **and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs**, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust.

(11) **In the event an account is established with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code Section 1396p(d)(4)(C), then upon the death of the life beneficiary the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. If there are no heirs, the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust.**

(12) **Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust.**

(13) Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance **as set forth in subdivision (7) of this subsection**; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo. The

designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated.

[(12)] **(14)** The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding. **The trustees may from time to time determine to use part of the principal of the charitable trust to provide such benefits.** As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time. The trustees shall annually [agree on] **determine** the amount of charitable trust income to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually.

(15) Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries

qualify as participants of the trust as set forth in subsection 1 of section 402.205.

402.217. 1. No beneficiary shall have any vested or property rights or interests in the family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the family trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the [original contribution] **principal balance**, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.

431.056. **1.** A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account and admission to a shelter for victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter if:

(1) The minor is sixteen or seventeen years of age; and
(2) The minor is homeless, as defined in [subdivisions (1), (2) and (3) of] subsection 1 of section 167.020, RSMo, or a victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the supervision of the **children's** division [of family services] or the jurisdiction of the juvenile court; and

(3) The minor is self-supporting, **such that the minor is without the physical or financial support of a parent or legal guardian;** and

(4) The minor's [parents have] **parent or legal guardian has** consented to the minor living independent of the parents' **or guardians'** control. **Consent may be expressed or implied, such that:**

(1) **Expressed consent is any verbal or written statement made by the parents or guardian of the minor displaying approval or agreement that the minor may live independently of the parent's or guardian's control;**

(2) **Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:**

(a) **Barring the minor from the home or otherwise indicating that the minor is not**

welcome to stay;

(b) Refusing to provide any or all financial support for the minor; or

(c) Abusing or neglecting the minor, as defined in section 210.110, RSMo.

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

(1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;

(2) The date of the marriage and the place at which it is registered;

(3) The date on which the parties separated;

(4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;

(5) Whether the wife is pregnant;

(6) The Social Security number of the petitioner, respondent and each child;

(7) Any arrangements as to the custody and support of the children and the maintenance of each party; and

(8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

(1) The Social Security number of the petitioner, respondent and each child;

(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:

(a) Major holidays stating which holidays a party has each year;

(b) School holidays for school-age children;

(c) The child's birthday, Mother's Day and Father's Day;

(d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;

(e) The times and places for transfer of the child between the parties in connection with the residential schedule;

(f) A plan for sharing transportation duties associated with the residential schedule;

(g) Appropriate times for telephone access;

(h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;

(i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;

(2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:

(a) Educational decisions and methods of communicating information from the school to both parties;

(b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a party suggests no shared decision-making, a statement of the reasons for such a request;

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

(a) The suggested amount of child support to be paid by each party;

(b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;

(c) The payment of educational expenses, if any;

(d) The payment of extraordinary expenses of the child, if any;

(e) Child care expenses, if any;

(f) Transportation expenses, if any.

8. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection 7 of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

10. The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Custody", means joint legal custody, sole legal custody, joint physical custody or sole physical custody or any combination thereof;

(2) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities, and authority;

(3) "Joint physical custody" means an order awarding each of the parents significant, but not necessarily equal, periods of time during which a child resides with or is under the care and

supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent, continuing and meaningful contact with both parents;

(4) "Third-party custody" means a third party designated as a legal and physical custodian pursuant to subdivision (5) of subsection 5 of this section.

2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;

(5) The child's adjustment to the child's home, school, and community;

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child **and any other child or children for whom the parent has custodial or visitation rights**, and the parent or other family or household member who is the victim of domestic violence from any further harm;

(7) The intention of either parent to relocate the principal residence of the child; and

(8) The wishes of a child as to the child's custodian.

The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such child or children.

3. **In any court proceedings relating to custody of a child**, the court shall not award custody **or unsupervised visitation** of a child to a parent if such parent **or any person residing with such parent** has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, when [the] a child was the victim, or a violation of chapter 568, RSMo, except for section 568.040, RSMo, when [the] a child was the victim, **or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or chapter 568, RSMo, if committed in Missouri.**

4. The general assembly finds and declares that it is the public policy of this state that

frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child, and that it is the public policy of this state to encourage parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. In order to effectuate these policies, the court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child.

5. Prior to awarding the appropriate custody arrangement in the best interest of the child, the court shall consider each of the following as follows:

(1) Joint physical and joint legal custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint physical and joint legal custody award. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(2) Joint physical custody with one party granted sole legal custody. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(3) Joint legal custody with one party granted sole physical custody;

(4) Sole custody to either parent; or

(5) Third-party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded to any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court awards custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under the provisions of this subsection, any person may petition the court to intervene as a party in interest at any time as provided by supreme court rule.

6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in subsection 4 of this section and each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

7. Upon a finding by the court that either parent has refused to exchange information with the other parent, which shall include but not be limited to information concerning the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay

the prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to reasonable attorney's fees and court costs.

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or [the] **any** child has been the victim of domestic violence, as defined in section 455.200, RSMo, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

11. Except as otherwise precluded by state or federal law, if any individual, professional, public or private institution or organization denies access or fails to provide or disclose any and all records and information, including, but not limited to, past and present dental, medical and school records pertaining to a minor child, to either parent upon the written request of such parent, the court shall, upon its finding that the individual, professional, public or private institution or organization denied such request without good cause, order that party to comply immediately with such request and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court costs associated with obtaining the requested information.

12. An award of joint custody does not preclude an award of child support pursuant to section 452.340 and applicable supreme court rules. The court shall consider the factors contained in section 452.340 and applicable supreme court rules in determining an amount reasonable or necessary for the support of the child.

13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, **and any other children for whom such parent has custodial or visitation rights** from any further harm.

452.400. 1. A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his **or her** emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights **to the child and any other children for whom such parent has custodial or visitation rights**. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child. The court shall not grant visitation to the parent not granted custody if such parent **or any person residing with such parent** has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, when [the] a child was the victim, or a violation of chapter 568, RSMo, except for section 568.040, RSMo, when [the] a child was the victim, or an offense committed in another state[,] when [the] a child is the victim, that would be a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, or chapter 568, RSMo, [except for section 568.040, RSMo,] if committed in Missouri. The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence, **and any other children for whom the parent has custodial or visitation rights** from any further harm. The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best protect the child or the parent or other family or household member who is the victim of domestic violence, **or any other child for whom the parent has custodial or visitation rights** from any further harm.

2. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his **or her** emotional development. **In any proceeding modifying visitation rights, the court shall not grant unsupervised visitation to a parent if the parent or any person residing with such parent has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of chapter 568, RSMo, except for section 568.040, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or chapter 568, RSMo, except for section 568.040, RSMo, if committed in Missouri.** When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3. The court shall mandate compliance with its order by all parties to the action, including parents, children and third parties. In the event of noncompliance, the aggrieved person may file a verified motion for contempt. If custody, visitation or third-party custody is denied or interfered with by a parent or third party without good cause, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the judgment of dissolution or legal separation. The state courts administrator shall develop a simple form for pro se motions to the aggrieved person, which shall be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action in the circuit court.

4. Within five court days after the filing of the family access motion pursuant to subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable state law, and applicable local or supreme court rules. A copy of the motion shall be personally served upon the respondent by personal process server as provided by law or by any sheriff. Such service shall be served at the earliest time and shall take priority over service in other civil actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The motion shall contain the following statement in boldface type: **"PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:**

(1) **AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;**

(2) **PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;**

(3) **ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST THE VIOLATOR;**

(4) **REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;**

(5) **ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND THE CHILD; AND**

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

5. If an alternative dispute resolution program is available pursuant to section 452.372, the clerk shall also provide information to all parties on the availability of any such services, and within fourteen days of the date of service, the court may schedule alternative dispute resolution.

6. Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited to:

(1) A compensatory period of visitation, custody or third-party custody at a time convenient for the aggrieved party not less than the period of time denied;

(2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;

(3) Assessment of a fine of up to five hundred dollars against the violator payable to the aggrieved party;

(4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders; and

(5) Ordering the violator to pay the cost of counseling to reestablish the parent-child relationship between the aggrieved party and the child.

7. The reasonable expenses incurred as a result of denial or interference with custody or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or third-party custody, shall be assessed, if requested and for good cause, against the parent or party who unreasonably denies or interferes with visitation, custody or third-party custody. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

8. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.

9. Motions filed pursuant to this section shall not be deemed an independent civil action from the original action pursuant to which the judgment or order sought to be enforced was entered.

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] **with another person** 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.

475.024. A parent of a minor, by a properly executed power of attorney, may delegate to another [individual,] **person** for a period not exceeding one year, any of his **or her** powers regarding care or custody of the minor child, except his **or her** power to consent to marriage or adoption of the minor child.

487.100. In any family court case the judge or commissioner may, on the judge's or commissioner's own motion or, at the request of a party, order or recommend mediation, counseling or a home study. The costs of such mediation, counseling or home study may be assessed against

any party at any time and may be taxed as court costs paid by the party against whom costs are taxed or may be paid from the family services and justice fund established pursuant to section 487.170. **The amount assessed for such mediation, counseling, or home study shall be such amount as the court determines to be reasonable under the circumstances.** The party's ability to pay shall be a consideration when such costs are assessed.

491.075. 1. A statement made by a child under the age of [twelve] **fourteen** relating to an offense under chapter 565, 566 or 568, RSMo, performed with or on a child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

(1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) (a) The child testifies at the proceedings; or

(b) The child is unavailable as a witness; or

(c) The child is otherwise physically available as a witness but the court finds that the significant emotional or psychological trauma which would result from testifying in the personal presence of the defendant makes the child unavailable as a witness at the time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age of [twelve] **fourteen** who is alleged to be victim of an offense under chapter 565, 566 or 568, RSMo, is sufficient corroboration of a statement, admission or confession regardless of whether or not the child is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes known to the accused or [his] **the accused's** counsel his **or her** intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the accused or [his] **the accused's** counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.

492.304. 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of [twelve] **fourteen** who is alleged to be a victim of an offense under the provisions of chapter 565, 566 or 568, RSMo, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; **except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, RSMo, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is**

being conducted;

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of the child shall not be admissible under this section unless the recording qualifies for admission under section 491.075, RSMo.

3. If the visual and aural recording of a verbal or nonverbal statement of a child is admissible under this section and the child testifies at the proceeding, it shall be admissible in addition to the testimony of the child at the proceeding whether or not it repeats or duplicates the child's testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

537.046. 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. [In any civil action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within five years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.] **Any action to recover damages from injury or illness caused by childhood sexual abuse in an action brought pursuant to this section, shall be commenced within ten years of the plaintiff attaining the age of twenty-one or within three years of the date the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by childhood sexual abuse, whichever later occurs.**

3. This section shall apply to any action commenced on or after [August 28, 1990] the

effective date of this section, including any action which would have been barred by the application of the statute of limitation applicable prior to that date.

701.336. 1. The department of health and senior services shall cooperate with the federal government in implementing subsections (d) and (e) of 15 U.S.C. 2685 to establish public education activities and an information clearinghouse regarding childhood lead poisoning. The department may develop additional educational materials on lead hazards to children, lead poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health hazards during abatement.

2. The department of health and senior services and the department of social services, in collaboration with related not-for-profit organizations, health maintenance organizations, and the Missouri consolidated health care plan, shall devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the educational strategy is to have seventy-five percent of the children who receive Medicaid tested for lead poisoning. The educational strategy shall be implemented over a three-year period and shall be in accordance with all federal laws and regulations.

3. The division of family services, in collaboration with the department of health and senior services, shall regularly inform eligible clients of the availability and desirability of lead screening and treatment services, including those available through the early and periodic screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

Section 1. For purposes of proceedings and investigations conducted pursuant to chapter 211, RSMo, children shall be promptly returned to the care and custody of a nonoffending parent entitled to physical custody of the child if:

(1) The parents have continuously maintained joint domicile for a period of at least six months prior to the alleged incident or the parents are maintaining separate households; and

(2) A preponderance of the evidence indicates that only one of the parents is the subject of an investigation of abuse or neglect; and

(3) The nonoffending parent does not have a history of criminal behavior, drug or alcohol abuse, child abuse or child neglect, domestic violence, stalking, or full orders of protection entered against them within the past five years; and

(4) The parents are maintaining joint domicile and the offending parent is removed from the home voluntarily or involuntarily, or the parents live separately and the child is removed from the home of the custodial parent; and

(5) A nonoffending parent requests custody of the child and agrees to cooperate with any orders of the court limiting contact or establishing visitation with the offending parent and the nonoffending parent complies with such orders.

When the parents maintain joint domicile, the offending parent shall be presumed to have given permission for the nonoffending parent to live in the household. The court shall order temporary or permanent change of custody of the child to the nonoffending parent if the

nonoffending parent does not have legal custody of the child, and shall order modifications to any public assistance benefits which may be required to assure the well-being of the child.

Section 2. If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

[26.740. 1. There is hereby created within the office of the governor a "Child Abuse, Custody and Neglect Commission" which shall evaluate the laws and rules relating to child abuse, neglect, child custody and visitation and termination of parental rights and shall make recommendations on further action or legislative remedies, if any, to be taken as necessary. The commission shall review and recommend standardized guidelines for judicial review of what constitutes the best interest of the child.

2. The child abuse, custody and neglect commission shall be composed of twelve members to be appointed by the governor, including a county prosecutor, a law enforcement officer, a juvenile officer, a certified guardian ad litem, a juvenile court judge, a member of the clergy, a psychologist, a pediatrician, an educator, the chairman of the children's services commission, a division of family services designee, and one citizen of the state of Missouri, chosen to reflect the racial composition of the state, to serve four-year terms and of the members first appointed, four shall serve for a term of two years, four shall serve for a term of three years, and four shall serve for a term of four years.

3. The commission shall make its first report to the governor and the general assembly by February 1, 2002, and any subsequent reports shall be made to the governor, the chief justice of the supreme court and the general assembly as necessary.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

5. The office of the governor shall provide funding, administrative support, and staff for the effective operation of the commission.

6. This section shall expire on August 28, 2004.]

Section B. Because immediate action is necessary to ensure the safety of children receiving child protective services section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2004, or upon its passage and approval, whichever later occurs.