

SECOND REGULAR SESSION

# SENATE BILL NO. 762

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAMPION.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

3212S.01I

## AN ACT

To repeal sections 210.025, 210.543, 210.565, and 210.760, RSMo, and to enact in lieu thereof eight new sections relating to foster care, with penalty provisions.

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

Section A. Sections 210.025, 210.543, 210.565, and 210.760, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.025, 210.487, 210.542, 210.543, 210.565, 210.760, 210.762, and 210.764, to read as follows:

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 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 division of family services shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant or any person over the age of eighteen 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 who is living in the applicant's home has been refused licensure or has experienced licensure suspension or

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

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 who is living in the applicant's home pursuant to **section 210.487 and** section 43.540, RSMo.

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 who is living in the applicant's home:

(1) Has had a probable cause finding of child abuse or neglect pursuant to section [210.145] **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 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 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] **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.**

**210.487. 1. The division of family services shall conduct the following investigations for the licensing of foster parents:**

**(1) A search for any adult in the applicant household for evidence of ex parte or 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) A criminal background fingerprint check, including Missouri criminal record information and federal criminal database information. The Missouri state highway patrol shall assist the division and provide the criminal fingerprint background information, upon request.**

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

**3. The division may promulgate rules and regulations 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 August 28, 2003, shall be invalid and void.

**210.542. 1. The division of family services shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.**

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

210.543. The division of family services shall train and license a separate category of foster parents who are able to provide special care and supervision to foster children who have special needs because of a history of sexual abuse, serious physical abuse, or severe chronic neglect. The training received by such specialized foster parents shall be in addition to the training required in section [210.540] **210.542**. Fiscal incentives for training and/or longevity may be provided by the division, subject to appropriation. The division shall place foster children with such specialized foster parents subject to available funds.

210.565. 1. Whenever a child is placed in a foster home the 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 the best interest of the child considering all circumstances.

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

**5. For any native American child placed in protective custody, the division of family services shall adhere to the placement requirements set forth in 25 U.S.C. 1915.**

210.760. 1. In making placements in foster care the 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, except where harm or danger to the child is imminent; 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 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 for placement in foster care without a court order specifying that the child shall be removed from school.**

**210.762. 1. The division of family services shall arrange for a team meeting prior to taking any action relating to the placement of a child in its custody except as otherwise provided in this section. Where the welfare of the child requires an immediate or emergency placement or change of placement, the division may make a temporary placement of a child in its custody. The division shall schedule a team meeting within seventy-two hours of the temporary placement of the child.**

**2. The parent or legal guardian of the child, the guardian ad litem, the juvenile officer, the division of family services caseworker, the court appointed special 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.**

**3. The department shall be responsible for developing a form 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 of the child. Any dissenting views must be recorded and attested to on such form.**

**4. The division of family services shall be responsible for including such form with the case records of the child.**

**210.764. Except as provided in section 210.150, the case records of a child in protective custody compiled by the division of family services shall be available for review by the parent or legal guardian of the child. Upon the death of a child in protective custody, the case records of the child shall be available to the public as provided in section 210.150 and upon request made pursuant to chapter 610, RSMo.**

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