

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 762

92ND GENERAL ASSEMBLY

2004

3212L.10T

AN ACT

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

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

Section A. Sections 210.025, 210.565, and 210.760, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.025, 210.482, 210.487, 210.542, 210.565, 210.760, 210.762, and 210.764, to read as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] **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 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;

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

(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, and inquire of the applicant whether any children less than seventeen years of age residing in the applicant's home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.**

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, **and any child less than seventeen years of age who is living in the applicant's home and who the division has determined has been certified as an adult for the commission of a crime:**

(1) Has had a probable cause finding of child abuse or neglect 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 or less than 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.

210.482. 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 or juvenile officer, subject to any required federal authorization, 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.

For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.

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 and all children less than seventeen residing in the home who the division has determined has been certified as an adult for the commission of a crime, 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 and all children less than seventeen years of age residing in the home who the division has determined has been certified as an adult for the commission of a crime 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.

210.542. 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 family support team meeting prior to or within twenty-four hours following the protective custody hearing 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 family support 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 family support team meeting within seventy-two hours.

2. The parents, the legal counsel for the 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 family support team meetings. The family support 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 case manager 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 children's division shall be available for review by the parent or legal guardian of the child.