

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 25
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Family Services April 11, 2007 with recommendation that House Committee Substitute for Senate Bill No. 25 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

0266L.02C

AN ACT

To repeal sections 210.145, 210.183, 454.390, 454.440, 454.455, 454.460, 454.470, 454.480, 454.496, 454.511, 454.810, and 511.350, RSMo, and to enact in lieu thereof eleven new sections relating to services for a child for psychiatric counseling, child abuse investigations, or child support enforcement, with penalty provisions.

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

- Section A. Sections 210.145, 210.183, 454.390, 454.440, 454.455, 454.460, 454.470, 454.480, 454.496, 454.511, 454.810, and 511.350, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 210.145, 210.183, 454.390, 454.440, 454.455, 454.460, 454.470, 454.496, 454.511, 511.350, and 1, to read as follows:
- 210.145. 1. The division shall 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 consistent with state and federal law;
 - (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.

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

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

17 3. Upon receipt of a report, the division shall determine if the report merits investigation,
18 including reports which if true would constitute a suspected violation of any of the following:
19 section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than
20 eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than
21 eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than
22 eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050,
23 RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045,
24 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040,
25 RSMo, or an attempt to commit any such crimes. The division shall immediately communicate
26 all reports that merit investigation to its appropriate local office and any relevant information as
27 may be contained in the information system. The local division staff shall determine, through
28 the use of protocols developed by the division, whether an investigation or the family assessment
29 and services approach should be used to respond to the allegation. The protocols developed by
30 the division shall give priority to ensuring the well-being and safety of the child.

31 4. The local office shall contact the appropriate law enforcement agency immediately
32 upon receipt of a report which division personnel determine merits an investigation and provide
33 such agency with a detailed description of the report received. In such cases the local division
34 office shall request the assistance of the local law enforcement agency in all aspects of the
35 investigation of the complaint. The appropriate law enforcement agency shall either assist the
36 division in the investigation or provide the division, within twenty-four hours, an explanation
37 in writing detailing the reasons why it is unable to assist.

38 5. The local office of the division shall cause an investigation or family assessment and
39 services approach to be initiated in accordance with the protocols established in subsection 2 of
40 this section, except in cases where the sole basis for the report is educational neglect. If the
41 report indicates that educational neglect is the only complaint and there is no suspicion of other
42 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
43 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
44 investigation shall include direct observation of the subject child within twenty-four hours of the
45 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
46 observation. If the parents of the child are not the alleged abusers, a parent of the child must be

47 notified prior to the child being interviewed by the division. If the abuse is alleged to have
48 occurred in a school or child-care facility the division shall not meet with the child in any school
49 building or child-care facility building where abuse of such child is alleged to have occurred.
50 When the child is reported absent from the residence, the location and the well-being of the child
51 shall be verified. For purposes of this subsection, "child-care facility" shall have the same
52 meaning as such term is defined in section 210.201.

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

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

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

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

80 10. Multidisciplinary teams shall be used whenever conducting the investigation as
81 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
82 shall be used in providing protective or preventive social services, including the services of law

83 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
84 other agencies, both public and private.

85 11. For all family support team meetings involving an alleged victim of child abuse or
86 neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian
87 of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be
88 provided notice and be permitted to attend all such meetings. Family members, other than
89 alleged perpetrators, or other community informal or formal service providers that provide
90 significant support to the child and other individuals may also be invited at the discretion of the
91 parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian
92 or custodian and the foster parents may request that other individuals, other than alleged
93 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
94 attends such team meetings, the division or the convenor of the meeting shall provide such
95 persons with notice of all such subsequent meetings involving the child. Families may determine
96 whether individuals invited at their discretion shall continue to be invited.

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

104 13. If the appropriate local division personnel determines to use a family assessment and
105 services approach, the division shall:

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

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

116 (3) Commence an immediate investigation if at any time during the family assessment
117 and services approach the division determines that an investigation, as delineated in sections

118 210.109 to 210.183, is required. The division staff who have conducted the assessment may
119 remain involved in the provision of services to the child and family;

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

122 14. Within thirty days of an oral report of abuse or neglect, the local office shall update
123 the information in the information system. The information system shall contain, at a minimum,
124 the determination made by the division as a result of the investigation, identifying information
125 on the subjects of the report, those responsible for the care of the subject child and other relevant
126 dispositional information. The division shall complete all investigations within thirty days,
127 unless good cause for the failure to complete the investigation is documented in the information
128 system. **If a child involved in a pending investigation dies, the investigation shall remain**
129 **open until the division's investigation surrounding the death is completed.** If the
130 investigation is not completed within thirty days, the information system shall be updated at
131 regular intervals and upon the completion of the investigation. The information in the
132 information system shall be updated to reflect any subsequent findings, including any changes
133 to the findings based on an administrative or judicial hearing on the matter.

134 15. A person required to report under section 210.115 to the division and any person
135 making a report of child abuse or neglect made to the division which is not made anonymously
136 shall be informed by the division of his or her right to obtain information concerning the
137 disposition of his or her report. Such person shall receive, from the local office, if requested,
138 information on the general disposition of his or her report. Such person may receive, if
139 requested, findings and information concerning the case. Such release of information shall be
140 at the discretion of the director based upon a review of the reporter's ability to assist in protecting
141 the child or the potential harm to the child or other children within the family. The local office
142 shall respond to the request within forty-five days. The findings shall be made available to the
143 reporter within five days of the outcome of the investigation. If the report is determined to be
144 unsubstantiated, the reporter may request that the report be referred by the division to the office
145 of child advocate for children's protection and services established in sections 37.700 to 37.730,
146 RSMo. Upon request by a reporter under this subsection, the division shall refer an
147 unsubstantiated report of child abuse or neglect to the office of child advocate for children's
148 protection and services.

149 16. In any judicial proceeding involving the custody of a child the fact that a report may
150 have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

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

154 (2) The court may on its own motion, or shall if requested by a party to the proceeding,
155 make an inquiry not on the record with the children's division to determine if such a report has
156 been made. If a report has been made, the court may stay the custody proceeding until the
157 children's division completes its investigation.

158 17. In any judicial proceeding involving the custody of a child where the court
159 determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of
160 section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall
161 not be entered into the registry.

162 18. The children's division is hereby granted the authority to promulgate rules and
163 regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to
164 carry out the provisions of sections 210.109 to 210.183.

165 19. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
166 is created under the authority delegated in this section shall become effective only if it complies
167 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
168 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
169 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
170 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
171 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
172 invalid and void.

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

5 "The investigation is being undertaken by the Children's Division pursuant to the
6 requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child
7 abuse or neglect.

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

10 This investigation is required by law to be conducted in order to enable the Children's
11 Division to identify incidents of abuse or neglect in order to provide protective or preventive
12 social services to families who are in need of such services.

13 The division shall make every reasonable attempt to complete the investigation within
14 thirty days, **except if a child involved in the pending investigation dies, the investigation**
15 **shall remain open until the division's investigation surrounding the death is completed.**
16 **Otherwise,** within ninety days you will receive a letter from the Division which will inform you
17 of one of the following:

18 (1) That the Division has found insufficient evidence of abuse or neglect; or

19 (2) That there appears to be by a preponderance of the evidence reason to suspect the
20 existence of child abuse or neglect in the judgment of the Division and that the Division will
21 contact the family to offer social services.

22 If the Division finds by a preponderance of the evidence reason to believe child abuse or
23 neglect has occurred or the case is substantiated by court adjudication, a record of the report and
24 information gathered during the investigation will remain on file with the Division.

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

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

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

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

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

454.390. The division shall use high-volume automated administrative enforcement, to
2 the same extent as used in intrastate cases, in response to a request made by another state child
3 support agency to enforce a support order and promptly report the results to the requesting state.
4 If the division provides assistance to another state in such a case, neither this state nor the
5 requesting state shall consider the case to be transferred to its caseload[; however], **but the**
6 **division may establish a corresponding case based on such other state's request for**
7 **assistance.** The division shall maintain records of the number of such interstate requests for
8 assistance, the number of cases for which support was collected and the amounts of such
9 collections. The division is authorized to transmit to another state, by electronic or other means,
10 a request for assistance in a case involving the enforcement of a support order. Such request
11 shall:

12 (1) Include information to enable the receiving state to compare the information about
13 the case to the information in state databases; and

14 (2) Constitute a certification by the division of the arrearage amount under the order and
15 that the division has complied with all applicable procedural due process requirements as
16 provided for in this chapter.

454.440. 1. As used in this section, unless the context clearly indicates otherwise, the
2 following terms mean:

3 (1) "Business" includes any corporation, partnership, association, individual, and labor
4 or other organization including, but not limited to, a public utility or cable company;

5 (2) "Division", the Missouri division of child support enforcement of the department of
6 social services;

7 (3) "Financial entity" includes any bank, trust company, savings and loan association,
8 credit union, insurance company, or any corporation, association, partnership, or individual
9 receiving or accepting money or its equivalent on deposit as a business;

10 (4) "Government agency", any department, board, bureau or other agency of this state
11 or any political subdivision of the state;

12 (5) "Information" includes, but is not necessarily limited to, the following items:

13 (a) Full name of the parent;

14 (b) Social Security number of the parent;

15 (c) Date of birth of the parent;

16 (d) Last known mailing and residential address of the parent;

17 (e) Amount of wages, salaries, earnings or commissions earned by or paid to the parent;

18 (f) Number of dependents declared by the parent on state and federal tax information and
19 reporting forms;

20 (g) Name of company, policy numbers and dependent coverage for any medical
21 insurance carried by or on behalf of the parent;

22 (h) Name of company, policy numbers and cash values, if any, for any life insurance
23 policies or annuity contracts, carried by or on behalf of, or owned by, the parent;

24 (i) Any retirement benefits, pension plans or stock purchase plans maintained on behalf
25 of, or owned by, the parent and the values thereof, employee contributions thereto, and the extent
26 to which each benefit or plan is vested;

27 (j) Vital statistics, including records of marriage, birth or divorce;

28 (k) Tax and revenue records, including information on residence address, employer,
29 income or assets;

30 (l) Records concerning real or personal property;

31 (m) Records of occupational, professional or recreational licenses or permits;

32 (n) Records concerning the ownership and control of corporations, partnerships or other
33 businesses;

- 34 (o) Employment security records;
35 (p) Records concerning motor vehicles;
36 (q) Records of assets or liabilities;
37 (r) Corrections records;
38 (s) Names and addresses of employers of parents;
39 (t) Motor vehicle records; and
40 (u) Law enforcement records;
41 (6) "Parent", a biological or adoptive parent, including a presumed or putative father.

42 **The word "parent" shall also include any person who has been found to be such by:**

- 43 **(a) A court of competent jurisdiction in an action for dissolution of marriage, legal**
44 **separation, or establishment of the parent and child relationship;**
45 **(b) The division under section 454.485;**
46 **(c) Operation of law under section 210.823, RSMo; or**
47 **(d) A court or administrative tribunal of another state.**

48 2. For the purpose of locating and determining financial resources of the parents relating
49 to establishment of paternity or to establish, modify or enforce support orders, the division or
50 other state IV-D agency may request and receive information from the federal Parent Locator
51 Service, from available records in other states, territories and the District of Columbia, from the
52 records of all government agencies, and from businesses and financial entities. A request for
53 information from a public utility or cable television company shall be made by subpoena
54 authorized pursuant to this chapter. The government agencies, businesses, and financial entities
55 shall provide information, if known or chronicled in their business records, notwithstanding any
56 other provision of law making the information confidential. In addition, the division may use
57 all sources of information and available records and, pursuant to agreement with the secretary
58 of the United States Department of Health and Human Services, or the secretary's designee,
59 request and receive from the federal Parent Locator Service information pursuant to 42 U.S.C.
60 Sections 653 and 663, to determine the whereabouts of any parent or child when such
61 information is to be used to locate the parent or child to enforce any state or federal law with
62 respect to the unlawful taking or restraining of a child, or of making or enforcing a child custody
63 or visitation order.

64 3. Notwithstanding the provisions of subsection 2 of this section, no financial entity shall
65 be required to provide the information requested by the division or other state IV-D agency
66 unless the division or other state IV-D agency alleges that the parent about whom the information
67 is sought is an officer, agent, member, employee, depositor, customer or the insured of the
68 financial institution, or unless the division or other state IV-D agency has complied with the
69 provisions of section 660.330, RSMo.

70 4. Any business or financial entity which has received a request from the division or
71 other state IV-D agency as provided by subsections 2 and 3 of this section shall provide the
72 requested information or a statement that any or all of the requested information is not known
73 or available to the business or financial entity, within sixty days of receipt of the request and
74 shall be liable to the state for civil penalties up to one hundred dollars for each day after such
75 sixty-day period in which it fails to provide the information so requested. Upon request of the
76 division or other state IV-D agency, the attorney general shall bring an action in a circuit court
77 of competent jurisdiction to recover the civil penalty. The court shall have the authority to
78 determine the amount of the civil penalty to be assessed.

79 5. Any business or financial entity, or any officer, agent or employee of such entity,
80 participating in good faith in providing information requested pursuant to subsections 2 and 3
81 of this section shall be immune from liability, civil or criminal, that might otherwise result from
82 the release of such information to the division.

83 6. Upon request of the division or other state IV-D agency, any parent shall complete a
84 statement under oath, upon such form as the division or other state IV-D agency may specify,
85 providing information, including, but not necessarily limited to, the parent's monthly income, the
86 parent's total income for the previous year, the number and name of the parent's dependents and
87 the amount of support the parent provides to each, the nature and extent of the parent's assets,
88 and such other information pertinent to the support of the dependent as the division or other state
89 IV-D agency may request. Upon request of the division or other state IV-D agency, such
90 statements shall be completed annually. Failure to comply with this subsection is a class A
91 misdemeanor.

92 7. The disclosure of any information provided to the business or financial entity by the
93 division or other state IV-D agency, or the disclosure of any information regarding the identity
94 of any applicant for or recipient of public assistance, by an officer or employee of any business
95 or financial entity, or by any person receiving such information from such employee or officer
96 is prohibited. Any person violating this subsection is guilty of a class A misdemeanor.

97 8. Any person who willfully requests, obtains or seeks to obtain information pursuant
98 to this section under false pretenses, or who willfully communicates or seeks to communicate
99 such information to any agency or person except pursuant to this chapter, is guilty of a class A
100 misdemeanor.

101 9. For the protection of applicants and recipients of services pursuant to sections 454.400
102 to 454.645, all officers and employees of, and persons and entities under contract to, the state of
103 Missouri are prohibited, except as otherwise provided in this subsection, from disclosing any
104 information obtained by them in the discharge of their official duties relative to the identity of
105 applicants for or recipients of services or relating to proceedings or actions to establish paternity

or to establish or enforce support, or relating to the contents of any records, files, papers and communications, except in the administration of the child support program or the administration of public assistance, including civil or criminal proceedings or investigations conducted in connection with the administration of the child support program or the administration of public assistance. Such officers, employees, persons or entities are specifically prohibited from disclosing any information relating to the location of one party to another party:

- (1) If a protective order has been entered against the other party; or
- (2) If there is reason to believe that such disclosure of information may result in physical or emotional harm to the other party.

In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of child support services or public assistance, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence. Nothing in this subsection shall be construed to prohibit the circuit clerk from releasing information, not otherwise privileged, from court records for reasons other than the administration of the child support program, if such information does not identify any individual as an applicant for or recipient of services pursuant to sections 454.400 to 454.645. Anyone who purposely or knowingly violates this subsection is guilty of a class A misdemeanor.

454.455. 1. In any case wherein an order for child support has been entered and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, and the caretaker relative makes an assignment of support rights to the division of family services in order to receive aid to families with dependent children benefits, the relinquishment and the assignment, by operation of law, shall transfer the child support obligation pursuant to the order to the division in behalf of the state. The assignment shall terminate when the caretaker relative no longer has physical custody of the child, except for those unpaid support obligations still owing to the state pursuant to the assignment at that time.

2. As used in subsection 1 of this section, the term "caretaker relative" includes only those persons listed in subdivision (2) of subsection 1 of section 208.040, RSMo.

3. If an order for child support has been entered, no assignment of support has been made, and the legal custodian and obligee under the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, or the child is placed by the court in the legal custody of a state agency, the division may, thirty days after the transfer of custody and upon notice to the obligor and obligee, direct the obligor or other payor to change the payee to the caretaker relative or appropriate state agency. [Such] An order

18 **changing the payee to a caretaker relative** shall terminate when the caretaker relative no
19 longer has physical custody of the child, or the state agency is relieved of legal custody, except
20 for the unpaid support obligations still owed to the caretaker relative **or the state.**

21 4. If there has been an assignment of support to an agency or division of the state or a
22 requirement to pay through a state disbursement unit, the division may, upon notice to the
23 obligor and obligee, direct the obligor or other payor to change the payee to the appropriate state
24 agency.

454.460. As used in sections 454.400 to 454.560, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Court", any circuit court of this state and any court or agency of any other state
4 having jurisdiction to determine the liability of persons for the support of another person;

5 (2) "Court order", any judgment, decree, or order of any court which orders payment of
6 a set or determinable amount of support money;

7 (3) "Department", the department of social services of the state of Missouri;

8 (4) "Dependent child", any person under the age of twenty-one who is not otherwise
9 emancipated, self-supporting, married, or a member of the armed forces of the United States;

10 (5) "Director", the director of the division of child support enforcement, or the director's
11 designee;

12 (6) "Division", the division of child support enforcement of the department of social
13 services of the state of Missouri;

14 (7) "IV-D agency", an agency designated by a state to administer programs under Title
15 IV-D of the Social Security Act;

16 (8) "IV-D case", a case in which services are being provided pursuant to section 454.400;

17 (9) "Obligee", any person, **state, or political subdivision** to whom [payments are
18 required to be made pursuant to the terms of a court order for a child, spouse or former spouse]
19 **or to which a duty of support is owed as determined by a court or administrative agency**
20 **of competent jurisdiction;**

21 (10) "Obligor", any person [required to make payments pursuant to the terms of a court
22 order for a child, spouse or former spouse] **who owes a duty of support as determined by a**
23 **court or administrative agency of competent jurisdiction;**

24 (11) "Parent", [the] a biological or adoptive [father or mother of a dependent child]
25 **parent, including a presumed or putative father. The word "parent" shall also include any**
26 **person who has been found to be such by:**

27 (a) **A court of competent jurisdiction in an action for dissolution of marriage, legal**
28 **separation, or establishment of the parent and child relationship;**

29 (b) **The division under section 454.485;**

30 (c) **Operation of law under section 210.823, RSMo; or**

31 (d) **A court or administrative tribunal of another state;**

32 (12) "Public assistance", any cash or benefit pursuant to Part IV-A, **Part IV-B, Part IV-**
33 **E**, or Title XIX of the federal Social Security Act paid by the department to or for the benefit of
34 any dependent child or any public assistance assigned to the state;

35 (13) "State", any state or political subdivision, territory or possession of the United
36 States, District of Columbia, and the Commonwealth of Puerto Rico;

37 (14) "Support order", a judgment, decree or order, whether temporary, final or subject
38 to modification, issued by a court or administrative agency of competent jurisdiction for the
39 support and maintenance of a child, including a child who has attained the age of majority
40 pursuant to the law of the issuing state, or of the parent with whom the child is living and
41 providing monetary support, health care, child care, arrearages or reimbursement for such child,
42 and which may include related costs and fees, interest and penalties, income withholding,
43 attorneys' fees and other relief.

454.470. 1. [If a court order has not been previously entered or if a support order has
2 been entered but is not entitled to recognition pursuant to sections 454.850 to 454.997,] The
3 director may issue a notice and finding of financial responsibility to a parent who owes a state
4 debt or who is responsible for the support of a child on whose behalf the custodian of that child
5 is receiving support enforcement services from the division pursuant to section 454.425 **if a**
6 **court order has not been previously entered against that parent, a court order has been**
7 **previously entered but has been terminated by operation of law or if a support order from**
8 **another state has been entered but is not entitled to recognition under sections 454.850 to**
9 **454.997.** [A copy] **Service** of the notice and finding shall be [mailed to the last known address
10 of both parents and any person or agency having custody of the child within fourteen days of the
11 issuance of such notice and finding] **made on the parent or other party in the manner**
12 **prescribed for service of process in a civil action by an authorized process server appointed**
13 **by the director, or by certified mail, return receipt requested. The director may appoint**
14 **any uninterested party, including but not limited to employees of the division, to serve such**
15 **process. For purposes of this subsection, a parent who refuses receipt of service by**
16 **certified mail is deemed to have been served. Service upon an obligee who is receiving**
17 **support enforcement services under section 454.425 may be made by regular mail.** When
18 appropriate to the circumstances of the individual action, the notice shall state:

19 (1) The name of the person or agency with custody of the dependent child and the name
20 of the dependent child for whom support is to be paid;

21 (2) The monthly future support for which the parent shall be responsible;

22 (3) The state debt, if any, accrued and accruing, and the monthly payment to be made on
23 the state debt which has accrued;

24 (4) A statement of the costs of collection, including attorney's fees, which may be
25 assessed against the parent;

26 (5) That the parent shall be responsible for providing medical insurance for the
27 dependent child;

28 (6) That if a parent desires to discuss the amount of support that should be paid, the
29 parent or person having custody of the child may, within twenty days after being served, contact
30 the division office which sent the notice and request a negotiation conference. The other parent
31 or person having custody of the child shall be notified of the negotiated conference and may
32 participate in the conference. If no agreement is reached on the monthly amount to be paid, the
33 director may issue a new notice and finding of financial responsibility, which may be sent to the
34 parent required to pay support by regular mail addressed to the parent's last known address or,
35 if applicable, the parent's attorney's last known address. A copy of the new notice and finding
36 shall be sent by regular mail to the other parent or person having custody of the child;

37 (7) That if a parent or person having custody of the child objects to all or any part of the
38 notice and finding of financial responsibility and no negotiation conference is requested, within
39 twenty days of the date of service the parent or person having custody of the child shall send to
40 the division office which issued the notice a written response which sets forth any objections and
41 requests a hearing; and, that if the director issues a new notice and finding of financial
42 responsibility, the parent or person having custody of the child shall have twenty days from the
43 date of issuance of the new notice to send a hearing request;

44 (8) That if such a timely response is received by the appropriate division office, and if
45 such response raises factual questions requiring the submission of evidence, the parent or person
46 having custody of the child shall have the right to a hearing before an impartial hearing officer
47 who is an attorney licensed to practice law in Missouri and, that if no timely written response is
48 received, the director may enter an order in accordance with the notice and finding of financial
49 responsibility;

50 (9) That the parent has the right to be represented at the hearing by an attorney of the
51 parent's own choosing;

52 (10) That the parent or person having custody of the child has the right to obtain
53 evidence and examine witnesses as provided for in chapter 536, RSMo, together with an
54 explanation of the procedure the parent or person having custody of the child shall follow in
55 order to exercise such rights;

56 (11) That as soon as the order is entered, the property of the parent required to pay
57 support shall be subject to collection actions, including, but not limited to, wage withholding,
58 garnishment, liens, and execution thereon;

59 (12) A reference to sections 454.460 to 454.510;

60 (13) That the parent is responsible for notifying the division of any change of address
61 or employment;

62 (14) That if the parent has any questions, the parent should telephone or visit the
63 appropriate division office or consult an attorney; and

64 (15) Such other information as the director finds appropriate.

65 2. The statement of periodic future support required by subdivision (2) of subsection 1
66 of this section is to be computed [as follows:

67 (1) If there is sufficient information available to the division regarding the parent's
68 financial and living situation, the scale and formula provided for in section 454.480 shall be
69 used; or

70 (2) If there is insufficient information available to use the scale and formula, an estimate
71 of ability to pay shall be the basis of the statement] **under the guidelines established in**
72 **subsection 8 of section 452.340.**

73 3. Any time limits for notices or requests may be extended by the director, and such
74 extension shall have no effect on the jurisdiction of the court, administrative body, or other entity
75 having jurisdiction over the proceedings.

76 4. If a timely written response setting forth objections and requesting a hearing is
77 received by the appropriate division office, and if such response raises a factual question
78 requiring the submission of evidence, a hearing shall be held in the manner provided by section
79 454.475. If no timely written response and request for hearing is received by the appropriate
80 division office, the director may enter an order in accordance with the notice, and shall specify:

81 (1) The amount of periodic support to be paid, with directions on the manner of payment;

82 (2) The amount of state debt, if any, accrued in favor of the department;

83 (3) The monthly payment to be made on state debt, if any;

84 (4) The amount of costs of collection, including attorney's fees, assessed against the
85 parent;

86 (5) The name of the person or agency with custody of the dependent child and the name
87 and birth date of the dependent child for whom support is to be paid;

88 (6) That the property of the parent is subject to collection actions, including, but not
89 limited to, wage withholding, garnishment, liens, and execution thereon; and

90 (7) If appropriate, that the parent shall provide medical insurance for the dependent child,
91 or shall pay the reasonable and necessary medical expenses of the dependent child.

92 5. The parent or person having custody of the child shall be sent a copy of the order by
93 [registered or certified mail, return receipt requested,] **regular mail** addressed to the parent's last
94 known address or, if applicable, the parent's attorney's last known address. The order is final,
95 and action by the director to enforce and collect upon the order, including arrearages, may be
96 taken from the date of issuance of the order. [A copy of the order shall also be sent by regular
97 mail to the person having custody of a child for whom an order is issued pursuant to this section.]

98 6. Copies of the orders issued pursuant to this section shall be mailed within fourteen
99 days of the issuance of the order.

100 7. Any parent or person having custody of the child who is aggrieved as a result of any
101 allegation or issue of fact contained in the notice and finding of financial responsibility shall be
102 afforded an opportunity for a hearing, upon the request in writing filed with the director not more
103 than twenty days after service of the notice and finding is made upon such parent or person
104 having custody of the child, and if in requesting such hearing, the aggrieved parent or person
105 having custody of the child raises a factual issue requiring the submission of evidence.

106 **8. At any time after the issuance of an order under this section, the director may**
107 **issue an order vacating that order if it is found that the order was issued without subject**
108 **matter or personal jurisdiction or if the order was issued without affording the obligor due**
109 **process of law.**

454.496. 1. At any time after the entry of a court order for child support in a case in
2 which support rights have been assigned to the state pursuant to section 208.040, RSMo, or a
3 case in which support enforcement services are being provided pursuant to section 454.425, the
4 obligated parent, the obligee or the division of child support enforcement may file a motion to
5 modify the existing child support order pursuant to this section, if a review has first been
6 completed by the director of child support enforcement pursuant to subdivision (13) of
7 subsection 2 of section 454.400. The motion shall be in writing in a form prescribed by the
8 director, shall set out the reasons for modification and shall state the telephone number and
9 address of the moving party. The motion shall be served in the same manner provided for in
10 subsection 5 of section 454.465 upon the obligated parent, the obligee and the division, as
11 appropriate. In addition, if the support rights are held by the division of family services on behalf
12 of the state, the moving party shall mail a true copy of the motion by certified mail to the person
13 having custody of the dependent child at the last known address of that person. The party against
14 whom the motion is made shall have thirty days either to resolve the matter by stipulated
15 agreement or to serve the moving party and the director, as appropriate, by regular mail with a
16 written response setting forth any objections to the motion and a request for hearing. When
17 requested, the hearing shall be conducted pursuant to section 454.475 by hearing officers

18 designated by the department of social services. In such proceedings, the hearing officers shall
19 have the authority granted to the director pursuant to subsection 6 of section 454.465.

20 2. When no objections and request for hearing have been served within thirty days, the
21 director, upon proof of service, shall enter an order granting the relief sought. Copies of the
22 order shall be mailed to the parties within fourteen days of issuance.

23 3. A motion to modify made pursuant to this section shall not stay the director from
24 enforcing and collecting upon the existing order unless so ordered by the court in which the order
25 is docketed.

26 4. The only support payments which may be modified are payments accruing subsequent
27 to the service of the motion upon all parties to the motion.

28 5. The party requesting modification shall have the burden of proving that a modification
29 is appropriate pursuant to the provisions of section 452.370, RSMo.

30 6. Notwithstanding the provisions of section 454.490 to the contrary, an administrative
31 order modifying a court order is not effective until the administrative order is filed with and
32 approved by the court that entered the court order. The court may approve the administrative
33 order if no party affected by the decision has filed a petition for judicial review pursuant to
34 sections 536.100 to 536.140, RSMo. After the thirty-day time period for filing a petition of
35 judicial review pursuant to chapter 536, RSMo, has passed, the court shall render its decision
36 within fifteen days. **If the court finds the administrative order should be approved, the**
37 **court shall make a written finding on the record that the order complies with section**
38 **452.340 and applicable supreme court rules and approve the order. If the court finds that**
39 **the administrative order should not be approved, the court shall set the matter for trial de**
40 **novo.**

41 7. If a petition for judicial review is filed, the court shall review all pleadings and the
42 administrative record, as defined in section 536.130, RSMo, pursuant to section 536.140, RSMo.
43 After such review, the court shall determine if the administrative order complies with section
44 452.340 and applicable supreme court rules. If it so determines, the court shall make a written
45 finding on the record that the order complies with section 452.340 and applicable supreme court
46 rules and approve the order or, if after review pursuant to section 536.140, RSMo, the court finds
47 that the administrative order does not comply with supreme court rule 88.01, the court may select
48 any of the remedies set forth in subsection 5 of section 536.140, RSMo. The court shall notify
49 the parties and the division of any setting pursuant to this section.

50 [7.] 8. Notwithstanding the venue provisions of chapter 536, RSMo, to the contrary, for
51 the filing of petitions for judicial review of final agency decisions and contested cases, the venue
52 for the filing of a petition for judicial review contesting an administrative order entered pursuant
53 to this section modifying a judicial order shall be in the court which entered the judicial order.

54 In such cases in which a petition for judicial review has been filed, the court shall consider the
55 matters raised in the petition and determine if the administrative order complies with section
56 452.340 and applicable supreme court rules. If the court finds that the administrative order
57 should not be approved, the court shall set the matter for trial de novo. The court shall notify the
58 parties and the division of the setting of such proceeding. If the court determines that the matters
59 raised in the petition are without merit and that the administrative order complies with the
60 provisions of section 452.340 and applicable supreme court rules, the court shall approve the
61 order.

454.511. The division may certify a person who owes a child support arrearage in [an]
2 **excess of the** amount [exceeding five thousand dollars] **set forth in 42 U.S.C. 654(31)** to the
3 appropriate federal government agency for the purpose of denying a passport to such person, or
4 revoking, suspending or limiting a passport previously issued to such person. Such person shall
5 be mailed, by the division or on behalf of the division, a notice of the proposed certification and
6 the consequences thereof upon such person. Within thirty days of receipt of the notice, the
7 person may contest the proposed certification by requesting in writing a hearing pursuant to the
8 procedures in section 454.475. At such hearing the obligor may assert only mistake of fact as
9 a defense. For purposes of this section, "mistake of fact" means an error in the amount of
10 arrearages or an error as to the identity of the obligor. The obligor shall have the burden of proof
11 on such issues. The division shall not certify the person until after a final decision has been
12 reached.

511.350. 1. Judgments and decrees entered by the supreme court, by any United States
2 district or circuit court held within this state, by any district of the court of appeals, by any circuit
3 court and any probate division of the circuit court, except judgments and decrees rendered by
4 associate, small claims and municipal divisions of the circuit courts, shall be liens on the real
5 estate of the person against whom they are entered, situate in the county for which or in which
6 the court is held.

7 2. Judgments and decrees rendered by the associate divisions of the circuit courts shall
8 not be liens on the real estate of the person against whom they are rendered until such judgments
9 or decrees are filed with the clerk of the circuit court pursuant to sections 517.141 and 517.151,
10 RSMo.

11 3. Judgments and decrees entered by the small claims and municipal divisions of the
12 circuit court shall not constitute liens against the real estate of the person against whom they are
13 rendered.

14 4. Notwithstanding any other provision of law, no judgments or decrees entered by any
15 court of competent jurisdiction may be amended or modified by any administrative agency
16 **without the approval of a court of competent jurisdiction.**

17 **5. Notwithstanding subsection 4 of this section or any other law to the contrary, no**
18 **judgments or decrees entered by any court of competent jurisdiction relating to child**
19 **support orders may be amended or modified by any administrative agency without the**
20 **approval of a court of competent jurisdiction.**

2 **Section 1. Prior authorization of psychological or counseling services shall not be**
3 **implemented for children under the age of six or for any child or adolescent in the custody**
4 **of or adopted from the custody of the state or for any child or adolescent in residential care**
5 **operated or contracted by the departments of social services or mental health who are**
6 **eligible for benefits under chapter 208, RSMo, or the MO HealthNet program.**

2 [454.480. In order to assist in determining the amount that a parent shall
3 be ordered to contribute toward the support of a dependent child, the division
4 shall establish by regulation a scale and formula for determining minimum
5 support obligations. The scale and formula shall take into account the following
6 factors:

- 7 (1) All earnings and income resources of the parents, including real and
8 personal property;
9 (2) The reasonable necessities of the parent;
10 (3) The needs of the dependent child for whom support is sought;
11 (4) The amount of public assistance which would be paid to the
12 dependent child under the full standard of need of the state's public assistance
13 plan;
14 (5) The existence of other dependents, except that the dependent child for
15 whom support is sought shall benefit from the income and resources of the parent
16 on an equitable basis in comparison with any other dependent of the parent;
17 (6) Other reasonable criteria which the division may choose to
18 incorporate.]

2 [454.810. 1. For all IV-D cases as defined by section 452.345, RSMo,
3 the division of child support enforcement shall determine support arrearages and
4 credits by consent of the parties to the support order or by use of the
5 administrative order process set out in section 454.476.

6 2. Notwithstanding any provisions of section 454.475 to the contrary,
7 hearings pursuant to this section may be requested by either party and may be
8 conducted by nonattorney hearing officers specially designated by the department
9 of social services. Any person adversely affected by any hearing decisions
10 pursuant to this section may obtain judicial review pursuant to sections 536.100
11 to 536.140, RSMo.

12 3. Any support arrearage and credit determination established pursuant
13 to this section and all documentation that forms the basis for the determination
14 shall be filed with the circuit clerk and shall be considered part of the official
trusteeship record if filed prior to October 1, 1999, or if filed after such date, as

15 part of the records of the payment center pursuant to this chapter for all
16 purposes.]

✓

Unofficial

Bill

Copy