

SECOND REGULAR SESSION

SENATE BILL NO. 1242

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5393S.011

AN ACT

To repeal sections 210.482, 210.486, 210.545, 210.565, 210.566, 453.026, and 453.030, RSMo, and to enact in lieu thereof seven new sections relating to foster care and adoption.

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

Section A. Sections 210.482, 210.486, 210.545, 210.565, 210.566, 453.026, 2 and 453.030, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 210.482, 210.486, 210.545, 210.565, 210.566, 453.026, and 4 453.030, to read as follows:

210.482. 1. If the emergency placement of a child in a private home is 2 necessary due to the unexpected absence of the child's parents, legal guardian, 3 or custodian, the juvenile court or children's division:

4 (1) May request that a local or state law enforcement agency or juvenile 5 officer, subject to any required federal authorization, immediately conduct a 6 name-based criminal history record check to include full orders of protection and 7 outstanding warrants of each person over the age of seventeen residing in the 8 home by using the Missouri uniform law enforcement system (MULES) and the 9 National Crime Information Center to access the Interstate Identification Index 10 maintained by the Federal Bureau of Investigation; and

11 (2) Shall determine or, in the case of the juvenile court, shall request the 12 division to determine whether any person over the age of seventeen years residing 13 in the home is listed on the child abuse and neglect registry.

14 For any children less than seventeen years of age residing in the home, the 15 children's division shall inquire of the person with whom an emergency placement 16 of a child will be made whether any children less than seventeen years of age

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

17 residing in the home have ever been certified as an adult and convicted of or pled
18 guilty or nolo contendere to any crime.

19 2. If a name-based search has been conducted pursuant to subsection 1
20 of this section, within fifteen calendar days after the emergency placement of the
21 child in the private home, and if the private home has not previously been
22 approved as a foster or adoptive home, all persons over the age of seventeen
23 residing in the home and all children less than seventeen residing in the home
24 who the division has determined have been certified as an adult for the
25 commission of a crime shall report to a local law enforcement agency for the
26 purpose of providing two sets of fingerprints each and accompanying fees,
27 pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the
28 highway patrol to search the criminal history repository and the second set shall
29 be forwarded to the Federal Bureau of Investigation for searching the federal
30 criminal history files. Results of the checks will be provided to the juvenile court
31 or children's division office requesting such information. Any child placed in
32 emergency placement in a private home shall be removed immediately if any
33 person residing in the home fails to provide fingerprints after being requested to
34 do so, unless the person refusing to provide fingerprints ceases to reside in the
35 private home.

36 3. If the placement of a child is denied as a result of a name-based
37 criminal history check and the denial is contested, all persons over the age of
38 seventeen residing in the home and all children less than seventeen years of age
39 residing in the home who the division has determined have been certified as an
40 adult for the commission of a crime shall, within fifteen calendar days, submit to
41 the juvenile court or the children's division two sets of fingerprints in the same
42 manner described in subsection 2 of this section, accompanying fees, and written
43 permission authorizing the juvenile court or the children's division to forward the
44 fingerprints to the state criminal record repository for submission to the Federal
45 Bureau of Investigation. One set of fingerprints shall be used by the highway
46 patrol to search the criminal history repository and the second set shall be
47 forwarded to the Federal Bureau of Investigation for searching the federal
48 criminal history files.

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

52 5. For the purposes of this section, "emergency placement" refers to those

53 limited instances when the juvenile court or children's division is placing a child
54 in the home of private individuals, including neighbors, friends, or relatives, as
55 a result of a sudden unavailability of the child's primary caretaker.

56 **6. Notwithstanding any other rule or law to the contrary, any**
57 **employee of the children's division may choose to become qualified to**
58 **be an emergency placement provider pursuant to this section. Any**
59 **employee who becomes qualified shall not provide emergency care for**
60 **any child in his or her caseload, but may, upon supervisory approval,**
61 **transfer the case of a child to another employee in order to qualify as**
62 **an emergency provider for such child.**

210.486. 1. No person shall operate or maintain a foster home, residential
2 care facility, or child placing agency without having in full force and effect a valid
3 license issued by the division or the department of health and senior services as
4 provided in section 210.484.

5 2. The division or the department of health and senior services as
6 provided in section 210.484 shall conduct an investigation of all applicants and
7 such investigation shall include examination of the physical facility and
8 investigation of persons responsible for the care of, planning, and services for the
9 children being served.

10 3. The division or the department of health and senior services as
11 provided in section 210.484 shall issue a license upon being satisfied that the
12 applicant complies with the applicable provisions of sections 210.481 to 210.536
13 and rules issued pursuant thereto.

14 4. The division or the department of health and senior services as
15 provided in section 210.484 shall initiate action on an application within a
16 reasonable time, which shall not exceed thirty days, from receipt of the
17 application.

18 5. The license shall be valid for a period not to exceed two years from date
19 of issuance.

20 6. The division or the department of health and senior services as
21 provided in section 210.484 may issue a provisional license to a foster home,
22 residential care facility, or child placing agency that is not currently meeting
23 requirements for full licensure but demonstrates the potential capacity to meet
24 full requirements for licensure; but no provisional license shall be issued unless
25 the director is satisfied that the operation of the foster home, residential care
26 facility, or child placing agency so licensed is not detrimental to the health and

27 safety of the children being served. The provisional license shall be nonrenewable
28 and shall be valid for a period not to exceed six months from date of issuance.

29 **7. Notwithstanding any other rule or law to the contrary, any**
30 **employee of the children's division may choose to operate and maintain**
31 **a licensed foster home pursuant to this section. Any caseworker who**
32 **is eligible and becomes licensed shall not provide foster care for any**
33 **child in his or her caseload, but may, upon supervisory approval,**
34 **transfer the case of a child to another employee in order to qualify as**
35 **a foster home for such child.**

36 **8. The division shall establish procedures and promulgate rules**
37 **to ensure that any applications to become a licensed foster home, and**
38 **that approximately one half of all training, education, or other**
39 **coursework required in order to become licensed, shall be available**
40 **and able to be completed on an Internet website created and**
41 **maintained by the division. Any rule or portion of a rule, as that term**
42 **is defined in section 536.010, RSMo, that is created under the authority**
43 **delegated in this section shall become effective only if it complies with**
44 **and is subject to all of the provisions of chapter 536, RSMo, and, if**
45 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**
46 **are nonseverable and if any of the powers vested with the general**
47 **assembly pursuant to chapter 536, RSMo, to review, to delay the**
48 **effective date, or to disapprove and annul a rule are subsequently held**
49 **unconstitutional, then the grant of rulemaking authority and any rule**
50 **proposed or adopted after August 28, 2008, shall be invalid and void.**

210.545. 1. The **children's** division [of family services] shall establish
2 reasonably accessible respite care facilities which may be utilized by foster
3 parents licensed by the division. Such licensed foster parents shall be permitted
4 to leave agency foster children in the respite care facilities for periods of time
5 determined jointly by the foster parent and the division and subject to available
6 funds.

7 2. Such respite care facilities may be licensed day care centers or
8 residential treatment centers who have contracted with the division to provide
9 such services. Licensed foster homes may also be designated as respite care
10 facilities.

11 **3. Notwithstanding any other rule or law to the contrary, any**
12 **employee of the children's division may choose to become qualified to**

13 **be a respite care provider pursuant to this section. Any employee who**
14 **becomes qualified shall not provide respite care for any child in his or**
15 **her caseload, but may, upon supervisory approval, transfer the case of**
16 **a child to another employee in order to qualify as a respite care**
17 **provider for such child.**

18 4. The **children's** division [of family services] shall promulgate rules
19 and regulations necessary to implement the provisions of this section. No rule
20 or portion of a rule promulgated under the authority of this section shall become
21 effective unless it has been promulgated pursuant to the provisions of section
22 536.024, RSMo.

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

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

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

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

22 5. **The guardian ad litem shall ascertain the child's wishes and**
23 **feelings about his or her placement by conducting an interview or**
24 **interviews with the child, if appropriate based on the child's age and**
25 **maturity level, which shall be considered as a factor in placement**
26 **decisions and recommendations, but shall not supersede the preference**

27 **for relative placement created by this section or be contrary to the**
28 **child's best interests.**

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

 210.566. 1. (1) The children's division and its contractors, recognizing
2 that foster parents are not clients but rather are colleagues in the child welfare
3 team, shall treat foster parents in a manner consistent with the National
4 Association of Social Workers' ethical standards of conduct as described in its
5 Social Workers' Ethical Responsibilities to Colleagues. Foster parents shall treat
6 the children in their care, the child's birth family and members of the child
7 welfare team in a manner consistent with their ethical responsibilities as
8 professional team members.

9 (2) The children's division and its contractors shall provide written
10 notification of the rights enumerated in this section at the time of initial
11 licensure and at the time of each licensure renewal following the initial licensure
12 period.

13 2. (1) The children's division and its contractors shall provide foster
14 parents with regularly scheduled opportunities for preservice training, and
15 regularly scheduled opportunities for pertinent inservice training, as determined
16 by the Missouri State Foster Care and Adoption Advisory Board.

17 (2) The children's division and its contractors shall provide to foster
18 parents and potential adoptive parents, prior to placement, all pertinent
19 information, including but not limited to full disclosure of all medical,
20 psychological, and psychiatric conditions of the child, as well as information from
21 previous placements that would indicate that the child or children may have a
22 propensity to cause violence to any member of the foster family home. The foster
23 parents shall be provided with any information regarding the child or the child's
24 family, including but not limited to the case plan, any family history of mental
25 or physical illness, sexual abuse of the child or sexual abuse perpetrated by the
26 child, criminal background of the child or the child's family, fire-setting or other
27 destructive behavior by the child, substance abuse by the child or child's family,
28 or any other information which is pertinent to the care and needs of the child and
29 to protect the foster or adoptive family. [Knowingly providing false or misleading
30 information to foster parents in order to secure placement shall be denoted in the
31 caseworker's personnel file and shall be kept on record by the division.] **If an**

32 **employee or agent of the children's division knowingly provides**
33 **incorrect information to a foster parent in order to secure placement**
34 **of a child, or knowingly fails to provide information which is pertinent**
35 **to the care and needs of such child or the protection of the foster**
36 **parent or family, such action shall be denoted in the personnel file of**
37 **such employee or agent, which shall be kept on record by the division,**
38 **and shall result in three days leave without pay, in accordance with the**
39 **provisions of section 36.370, RSMo. If an employee or agent of a child**
40 **placing agency licensed pursuant to sections 210.481 to 210.536,**
41 **knowingly provides incorrect information to a foster parent in order**
42 **to secure placement of a child, or knowingly fails to provide**
43 **information which is pertinent to the care and needs of such child or**
44 **the protection of the foster parent or family, such action shall be**
45 **denoted in the personnel file of such employee or agent, and shall be**
46 **kept on record by the licensing division or department following**
47 **consideration as to whether such action constitutes a basis for**
48 **suspension or revocation of the agency's license.**

49 (3) The children's division and its contractors shall arrange preplacement
50 visits, except in emergencies.

51 (4) The foster parents may ask questions about the child's case plan,
52 encourage a placement or refuse a placement without reprisal from the
53 caseworker or agency. After a placement, the children's division and its
54 contractors shall update the foster parents as new information about the child is
55 gathered.

56 (5) Foster parents shall be informed in a timely manner by the children's
57 division and its contractors of all team meetings and staffings concerning their
58 licensure status or children placed in their homes, and shall be allowed to
59 participate, consistent with section 210.761.

60 (6) The children's division and its contractors shall establish reasonably
61 accessible respite care for children in foster care for short periods of time, jointly
62 determined by foster parents and the child's caseworker pursuant to section
63 210.545. Foster parents shall follow all procedures established by the children's
64 division and its contractors for requesting and using respite care.

65 (7) Foster parents shall treat all information received from the children's
66 division and its contractors about the child and the child's family as
67 confidential. Information necessary for the medical or psychiatric care of the

68 child may be provided to the appropriate practitioners. Foster parents may share
69 information necessary with school personnel in order to secure a safe and
70 appropriate education for the child. Additionally, foster parents shall share
71 information they may learn about the child and the child's family, and concerns
72 that arise in the care of the child, with the caseworker and other members of the
73 child welfare team. Recognizing that placement changes are difficult for children,
74 foster parents shall seek all necessary information, and participate in
75 preplacement visits whenever possible, before deciding whether to accept a child
76 for placement.

77 3. (1) Foster parents shall make decisions about the daily living concerns
78 of the child, and shall be permitted to continue the practice of their own family
79 values and routines while respecting the child's cultural heritage. All discipline
80 shall be consistent with state laws and regulations. The children's division shall
81 allow foster parents to help plan visitation between the child and the child's
82 siblings or biological family. Visitations should be scheduled at a time that meets
83 the needs of the child, the biological family members, and the foster family
84 whenever possible. Recognizing that visitation with family members is an
85 important right of children in foster care, foster parents shall be flexible and
86 cooperative with regard to family visits.

87 (2) Foster parents shall provide care that is respectful of the child's
88 cultural identity and needs. Recognizing that cultural competence can be
89 learned, the children's division and their contractors shall provide foster parents
90 with training that specifically addresses cultural needs of children, including but
91 not limited to, information on skin and hair care, information on any specific
92 religious or cultural practices of the child's biological family, and referrals to
93 community resources for ongoing education and support.

94 (3) Foster parents shall recognize that the purpose of discipline is to teach
95 and direct the behavior of the child, and ensure that it is administered in a
96 humane and sensitive manner. Foster parents shall use discipline methods which
97 are consistent with children's division policy.

98 4. (1) Consistent with state laws and regulations, the children's division
99 and its contractors shall provide, upon request by the foster parents, information
100 about a child's progress after the child leaves foster care.

101 (2) Except in emergencies, foster parents shall be given two weeks
102 advance notice and a written statement of the reasons before a child is removed
103 from their care. When requesting removal of a child from their home, foster

104 parents shall give two weeks advance notice, consistent with division policy, to
105 the child's caseworker, except in emergency situations.

106 (3) Recognizing the critical nature of attachment for children, if a child
107 reenters the foster care system and is not placed in a relative home, the child's
108 former foster parents shall be given first consideration for placement of the child.

109 (4) If a child becomes free for adoption while in foster care, the child's
110 foster family shall be given preferential consideration as adoptive parents
111 consistent with section 453.070, RSMo.

112 (5) If a foster child becomes free for adoption and the foster parents desire
113 to adopt the child, they shall inform the caseworker within sixty days of the
114 caseworker's initial query. If they do not choose to pursue adoption, foster
115 parents shall make every effort to support and encourage the child's placement
116 in a permanent home, including but not limited to providing information on the
117 history and care needs of the child and accommodating transitional visitation.

118 5. Foster parents shall be informed by the court no later than two weeks
119 prior to all court hearings pertaining to a child in their care, and informed of
120 their right to attend and participate, consistent with section 211.464, RSMo.

121 6. The children's division and their contractors shall provide access to a
122 fair and impartial grievance process to address licensure, case management
123 decisions, and delivery of service issues. Foster parents shall have timely access
124 to the child placement agency's appeals process, and shall be free from acts of
125 retaliation when exercising the right to appeal.

126 7. The children's division and their contractors shall provide training to
127 foster parents on the policies and procedures governing the licensure of foster
128 homes, the provision of foster care, and the adoption process. Foster parents
129 shall, upon request, be provided with written documentation of the policies of the
130 children's division and their contractors. Per licensure requirements, foster
131 parents shall comply with the policies of the child placement agency.

132 8. For purposes of this section, "foster parent" means a resource family
133 providing care of children in state custody.

453.026. 1. As early as is practical before a prospective adoptive parent
2 accepts physical custody of a child, the person placing the child for adoption, as
3 authorized by section 453.014, shall furnish to the court, the guardian ad litem
4 and the prospective adoptive parent a written report regarding the child.

5 2. The person placing the child shall not be held liable for incorrect
6 information as provided by others or unintentional errors when making the

7 written report. **If an employee or agent of the children's division**
8 **knowingly provides incorrect information to a prospective adoptive**
9 **parent in order to secure placement of a child, or knowingly fails to**
10 **provide information which is pertinent to the care and needs of such**
11 **child or the protection of the prospective adoptive parent or family,**
12 **such action shall be denoted in the personnel file of such employee or**
13 **agent, which shall be kept on record by the division, and shall result in**
14 **three days leave without pay, in accordance with the provisions of**
15 **section 36.370, RSMo. If an employee or agent of a child placing agency**
16 **licensed pursuant to sections 210.481 to 210.536, RSMo, knowingly**
17 **provides incorrect information to a prospective adoptive parent, or**
18 **knowingly fails to provide information which is pertinent to the care**
19 **and needs of such child or the protection of the prospective adoptive**
20 **parent or family, such action shall be denoted in the personnel file of**
21 **such employee or agent, and shall be kept on record by the licensing**
22 **division or department following consideration as to whether such**
23 **action constitutes a basis for suspension or revocation of the agency's**
24 **license.**

25 3. The department of social services, division of family services shall
26 promulgate rules and regulations regarding all written information that shall be
27 furnished to the court, the guardian ad litem and the prospective adoptive parent.

28 4. No rule or portion of a rule promulgated under the authority of this
29 section shall become effective unless it has been promulgated pursuant to the
30 provisions of section 536.024, RSMo.

453.030. 1. In all cases the approval of the court of the adoption shall be
2 required and such approval shall be given or withheld as the welfare of the
3 person sought to be adopted may, in the opinion of the court, demand.

4 2. The written consent of the person to be adopted shall be required in all
5 cases where the person sought to be adopted is fourteen years of age or older,
6 except where the court finds that such child has not sufficient mental capacity to
7 give the same. **In a case involving a child under fourteen years of age,**
8 **the guardian ad litem shall ascertain the child's wishes and feelings**
9 **about his or her adoption by conducting an interview or interviews**
10 **with the child, if appropriate based on the child's age and maturity**
11 **level, which shall be considered by the court as a factor in determining**
12 **if the adoption is in the child's best interests.**

13 3. With the exceptions specifically enumerated in section 453.040, when
14 the person sought to be adopted is under the age of eighteen years, the written
15 consent of the following persons shall be required and filed in and made a part
16 of the files and record of the proceeding:

17 (1) The mother of the child; and

18 (2) Only the man who:

19 (a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3)
20 of subsection 1 of section 210.822, RSMo; or

21 (b) Has filed an action to establish his paternity in a court of competent
22 jurisdiction no later than fifteen days after the birth of the child and has served
23 a copy of the petition on the mother in accordance with section 506.100, RSMo;
24 or

25 (c) Filed with the putative father registry pursuant to section 192.016,
26 RSMo, a notice of intent to claim paternity or an acknowledgment of paternity
27 either prior to or within fifteen days after the child's birth, and has filed an
28 action to establish his paternity in a court of competent jurisdiction no later than
29 fifteen days after the birth of the child; or

30 (3) The child's current adoptive parents or other legally recognized mother
31 and father.

32 Upon request by the petitioner and within one business day of such request, the
33 clerk of the local court shall verify whether such written consents have been filed
34 with the court.

35 4. The written consent required in subdivisions (2) and (3) of subsection
36 3 of this section may be executed before or after the commencement of the
37 adoption proceedings, and shall be acknowledged before a notary public. In lieu
38 of such acknowledgment, the signature of the person giving such written consent
39 shall be witnessed by the signatures of at least two adult persons whose
40 signatures and addresses shall be plainly written thereon. The two adult
41 witnesses shall not be the prospective adoptive parents or any attorney
42 representing a party to the adoption proceeding. The notary public or witnesses
43 shall verify the identity of the party signing the consent.

44 5. The written consent required in subdivision (1) of subsection 3 of this
45 section by the birth parent shall not be executed anytime before the child is
46 forty-eight hours old. Such written consent shall be executed in front of a judge
47 or a notary public. In lieu of such acknowledgment, the signature of the person
48 giving such written consent shall be witnessed by the signatures of at least two

49 adult persons who are present at the execution whose signatures and addresses
50 shall be plainly written thereon and who determine and certify that the consent
51 is knowingly and freely given. The two adult witnesses shall not be the
52 prospective adoptive parents or any attorney representing a party to the adoption
53 proceeding. The notary public or witnesses shall verify the identity of the party
54 signing the consent.

55 6. The written consents shall be reviewed and, if found to be in
56 compliance with this section, approved by the court within three business days
57 of such consents being presented to the court. Upon review, in lieu of approving
58 the consent within three business days, the court may set a date for a prompt
59 evidentiary hearing upon notice to the parties. Failure to review and approve the
60 written consent within three business days shall not void the consent, but a party
61 may seek a writ of mandamus from the appropriate court, unless an evidentiary
62 hearing has been set by the court pursuant to this subsection.

63 7. The written consent required in subsection 3 of this section may be
64 withdrawn anytime until it has been reviewed and accepted by a judge.

65 8. A consent form shall be developed through rules and regulations
66 promulgated by the department of social services. No rule or portion of a rule
67 promulgated under the authority of this section shall become effective unless it
68 has been promulgated pursuant to the provisions of chapter 536, RSMo. If a
69 written consent is obtained after August 28, 1997, but prior to the development
70 of a consent form by the department and the written consent complies with the
71 provisions of subsection 9 of this section, such written consent shall be deemed
72 valid.

73 9. However, the consent form must specify that:

74 (1) The birth parent understands the importance of identifying all possible
75 fathers of the child and may provide the names of all such persons; and

76 (2) The birth parent understands that if he denies paternity, but consents
77 to the adoption, he waives any future interest in the child.

78 10. The written consent to adoption required by subsection 3 and executed
79 through procedures set forth in subsection 5 of this section shall be valid and
80 effective even though the parent consenting was under eighteen years of age, if
81 such parent was represented by a guardian ad litem, at the time of the execution
82 thereof.

83 11. Where the person sought to be adopted is eighteen years of age or
84 older, his written consent alone to his adoption shall be sufficient.

85 12. A birth parent, including a birth parent less than eighteen years of
86 age, shall have the right to legal representation and payment of any reasonable
87 legal fees incurred throughout the adoption process. In addition, the court may
88 appoint an attorney to represent a birth parent if:

89 (1) A birth parent requests representation;

90 (2) The court finds that hiring an attorney to represent such birth parent
91 would cause a financial hardship for the birth parent; and

92 (3) The birth parent is not already represented by counsel.

93 13. Except in cases where the court determines that the adoptive parents
94 are unable to pay reasonable attorney fees and appoints pro bono counsel for the
95 birth parents, the court shall order the costs of the attorney fees incurred
96 pursuant to subsection 12 of this section to be paid by the prospective adoptive
97 parents or the child-placing agency.

✓

Bill

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