

FIRST REGULAR SESSION

SENATE BILL NO. 41

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0514S.011

AN ACT

To repeal sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, and to enact in lieu thereof sixteen new sections relating to protecting children from sexual offenders, with penalty provisions.

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

Section A. Sections 37.710, 160.261, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 37.710, 160.085, 160.261, 160.262, 162.014, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.145, 210.152, 210.915, 210.922, and 556.037, to read as follows:

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

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena

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

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

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

20 (4) **To file any findings or reports of the child advocate regarding**
21 **the parent or child with the court, and issue recommendations**
22 **regarding the disposition of an investigation, which may be provided**
23 **to the court and to the investigating agency;**

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

26 [(5)] (6) To initiate meetings with the department of social services, the
27 department of mental health, the juvenile court, and juvenile officers;

28 [(6)] (7) To take whatever steps are appropriate to see that persons are
29 made aware of the services of the child advocate's office, its purpose, and how it
30 can be contacted;

31 [(7)] (8) To apply for and accept grants, gifts, and bequests of funds from
32 other states, federal, and interstate agencies, and independent authorities,
33 private firms, individuals, and foundations to carry out his or her duties and
34 responsibilities. The funds shall be deposited in a dedicated account established
35 within the office to permit moneys to be expended in accordance with the
36 provisions of the grant or bequest; and

37 [(8)] (9) Subject to appropriation, to establish as needed local panels on
38 a regional or county basis to adequately and efficiently carry out the functions
39 and duties of the office, and address complaints in a timely manner.

40 3. For any information obtained from a state agency or entity under
41 sections 37.700 to 37.730, the office of child advocate shall be subject to the same
42 disclosure restrictions and confidentiality requirements that apply to the state
43 agency or entity providing such information to the office of child advocate. For
44 information obtained directly by the office of child advocate under sections 37.700
45 to 37.730, the office of child advocate shall be subject to the same disclosure
46 restrictions and confidentiality requirements that apply to the children's division
47 regarding information obtained during a child abuse and neglect investigation
48 resulting in an unsubstantiated report.

**160.085. This act shall be known as the "Amy Hestir Student
2 Protection Act".**

160.261. 1. The local board of education of each school district shall
2 clearly establish a written policy of discipline, including the district's
3 determination on the use of corporal punishment and the procedures in which
4 punishment will be applied. A written copy of the district's discipline policy and
5 corporal punishment procedures, if applicable, shall be provided to the pupil and
6 parent or legal guardian of every pupil enrolled in the district at the beginning
7 of each school year and also made available in the office of the superintendent of
8 such district, during normal business hours, for public inspection. All employees
9 of the district shall annually receive instruction related to the specific contents
10 of the policy of discipline and any interpretations necessary to implement the
11 provisions of the policy in the course of their duties, including but not limited to
12 approved methods of dealing with acts of school violence, disciplining students
13 with disabilities and instruction in the necessity and requirements for
14 confidentiality.

15 2. The policy shall require school administrators to report acts of school
16 violence to teachers and other school district employees with a need to know. For
17 the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as
18 school personnel who are directly responsible for the student's education or who
19 otherwise interact with the student on a professional basis while acting within
20 the scope of their assigned duties. As used in this section, the phrase "act of
21 school violence" or "violent behavior" means the exertion of physical force by a
22 student with the intent to do serious physical injury as defined in subdivision (6)
23 of section 565.002, RSMo, to another person while on school property, including
24 a school bus in service on behalf of the district, or while involved in school
25 activities. The policy shall at a minimum require school administrators to report,
26 as soon as reasonably practical, to the appropriate law enforcement agency any
27 of the following crimes, or any act which if committed by an adult would be one
28 of the following crimes:

- 29 (1) First degree murder under section 565.020, RSMo;
- 30 (2) Second degree murder under section 565.021, RSMo;
- 31 (3) Kidnapping under section 565.110, RSMo;
- 32 (4) First degree assault under section 565.050, RSMo;
- 33 (5) Forcible rape under section 566.030, RSMo;
- 34 (6) Forcible sodomy under section 566.060, RSMo;
- 35 (7) Burglary in the first degree under section 569.160, RSMo;
- 36 (8) Burglary in the second degree under section 569.170, RSMo;

- 37 (9) Robbery in the first degree under section 569.020, RSMo;
38 (10) Distribution of drugs under section 195.211, RSMo;
39 (11) Distribution of drugs to a minor under section 195.212, RSMo;
40 (12) Arson in the first degree under section 569.040, RSMo;
41 (13) Voluntary manslaughter under section 565.023, RSMo;
42 (14) Involuntary manslaughter under section 565.024, RSMo;
43 (15) Second degree assault under section 565.060, RSMo;
44 (16) Sexual assault under section 566.040, RSMo;
45 (17) Felonious restraint under section 565.120, RSMo;
46 (18) Property damage in the first degree under section 569.100, RSMo;
47 (19) The possession of a weapon under chapter 571, RSMo;
48 (20) Child molestation in the first degree pursuant to section 566.067,
49 RSMo;
50 (21) Deviate sexual assault pursuant to section 566.070, RSMo;
51 (22) Sexual misconduct involving a child pursuant to section 566.083,
52 RSMo;
53 (23) Sexual abuse pursuant to section 566.100, RSMo;
54 (24) Harassment under section 565.090, RSMo; or
55 (25) Stalking under section 565.225, RSMo;

56 committed on school property, including but not limited to actions on any school
57 bus in service on behalf of the district or while involved in school activities. The
58 policy shall require that any portion of a student's individualized education
59 program that is related to demonstrated or potentially violent behavior shall be
60 provided to any teacher and other school district employees who are directly
61 responsible for the student's education or who otherwise interact with the student
62 on an educational basis while acting within the scope of their assigned
63 duties. The policy shall also contain the consequences of failure to obey
64 standards of conduct set by the local board of education, and the importance of
65 the standards to the maintenance of an atmosphere where orderly learning is
66 possible and encouraged.

67 3. The policy shall provide that any student who is on suspension for any
68 of the offenses listed in subsection 2 of this section or any act of violence or
69 drug-related activity defined by school district policy as a serious violation of
70 school discipline pursuant to subsection 9 of this section shall have as a condition
71 of his or her suspension the requirement that such student is not allowed, while
72 on such suspension, to be within one thousand feet of any public school in the

73 school district where such student attended school unless:

74 (1) Such student is under the direct supervision of the student's parent,
75 legal guardian, or custodian;

76 (2) Such student is under the direct supervision of another adult
77 designated by the student's parent, legal guardian, or custodian, in advance, in
78 writing, to the principal of the school which suspended the student;

79 (3) Such student is in an alternative school that is located within one
80 thousand feet of a public school in the school district where such student attended
81 school; or

82 (4) Such student resides within one thousand feet of any public school in
83 the school district where such student attended school in which case such student
84 may be on the property of his or her residence without direct adult supervision.

85 4. Any student who violates the condition of suspension required pursuant
86 to subsection 3 of this section may be subject to expulsion or further suspension
87 pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In
88 making this determination consideration shall be given to whether the student
89 poses a threat to the safety of any child or school employee and whether such
90 student's unsupervised presence within one thousand feet of the school is
91 disruptive to the educational process or undermines the effectiveness of the
92 school's disciplinary policy. Removal of any pupil who is a student with a
93 disability is subject to state and federal procedural rights.

94 5. The policy shall provide for a suspension for a period of not less than
95 one year, or expulsion, for a student who is determined to have brought a weapon
96 to school, including but not limited to the school playground or the school parking
97 lot, brought a weapon on a school bus or brought a weapon to a school activity
98 whether on or off of the school property in violation of district policy, except that:

99 (1) The superintendent or, in a school district with no high school, the
100 principal of the school which such child attends may modify such suspension on
101 a case-by-case basis; and

102 (2) This section shall not prevent the school district from providing
103 educational services in an alternative setting to a student suspended under the
104 provisions of this section.

105 6. For the purpose of this section, the term "weapon" shall mean a firearm
106 as defined under 18 U.S.C. 921 and the following items, as defined in section
107 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a
108 firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a

109 projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except
110 that this section shall not be construed to prohibit a school board from adopting
111 a policy to allow a Civil War reenactor to carry a Civil War era weapon on school
112 property for educational purposes so long as the firearm is unloaded. The local
113 board of education shall define weapon in the discipline policy. Such definition
114 shall include the weapons defined in this subsection but may also include other
115 weapons.

116 7. All school district personnel responsible for the care and supervision
117 of students are authorized to hold every pupil strictly accountable for any
118 disorderly conduct in school or on any property of the school, on any school bus
119 going to or returning from school, during school-sponsored activities, or during
120 intermission or recess periods.

121 8. Teachers and other authorized district personnel in public schools
122 responsible for the care, supervision, and discipline of schoolchildren, including
123 volunteers selected with reasonable care by the school district, shall not be civilly
124 liable when acting in conformity with the established policy of discipline
125 developed by each board under this section, or when reporting to his or her
126 supervisor or other person as mandated by state law acts of school violence or
127 threatened acts of school violence, within the course and scope of the duties of the
128 teacher, authorized district personnel or volunteer, when such individual is acting
129 in conformity with the established policies developed by the board. Nothing in
130 this section shall be construed to create a new cause of action against such school
131 district, or to relieve the school district from liability for the negligent acts of
132 such persons.

133 9. Each school board shall define in its discipline policy acts of violence
134 and any other acts that constitute a serious violation of that policy. "Acts of
135 violence" as defined by school boards shall include but not be limited to exertion
136 of physical force by a student with the intent to do serious bodily harm to another
137 person while on school property, including a school bus in service on behalf of the
138 district, or while involved in school activities. School districts shall for each
139 student enrolled in the school district compile and maintain records of any
140 serious violation of the district's discipline policy. Such records shall be made
141 available to teachers and other school district employees with a need to know
142 while acting within the scope of their assigned duties, and shall be provided as
143 required in section 167.020, RSMo, to any school district in which the student
144 subsequently attempts to enroll.

145 10. Spanking, when administered by certificated personnel of a school
146 district in a reasonable manner in accordance with the local board of education's
147 written policy of discipline, is not abuse within the meaning of chapter 210,
148 RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the
149 **children's** division [of family services] shall not have jurisdiction over or
150 investigate any report of alleged child abuse arising out of or related to any
151 spanking administered in a reasonable manner by any certificated school
152 personnel pursuant to a written policy of discipline established by the board of
153 education of the school district. **If a student reports alleged sexual**
154 **misconduct on the part of a teacher or other school employee to a**
155 **mandated reporter as defined in section 210.115, RSMo, the**
156 **superintendent of the school district shall forward the allegation to the**
157 **children's division within twenty-four hours of receiving the**
158 **information.**

159 11. Upon receipt of any reports of child abuse by the **children's** division
160 [of family services] pursuant to sections 210.110 to 210.165, RSMo, which
161 allegedly involves personnel of a school district, the **children's** division [of family
162 services] shall notify the superintendent of schools of the district or, if the person
163 named in the alleged incident is the superintendent of schools, the president of
164 the school board of the school district where the alleged incident occurred.

165 12. If, after an initial investigation, the superintendent of schools or the
166 president of the school board finds that the report involves an alleged incident of
167 child abuse other than the administration of a spanking by certificated school
168 personnel pursuant to a written policy of discipline or a report made for the sole
169 purpose of harassing a public school employee, the superintendent of schools or
170 the president of the school board shall immediately refer the matter back to the
171 **children's** division [of family services] and take no further action. In all matters
172 referred back to the **children's** division [of family services], the division [of
173 family services] shall treat the report in the same manner as other reports of
174 alleged child abuse received by the division.

175 13. If the report pertains to an alleged incident which arose out of or is
176 related to a spanking administered by certificated personnel of a school district
177 pursuant to a written policy of discipline or a report made for the sole purpose of
178 harassing a public school employee, a notification of the reported child abuse
179 shall be sent by the superintendent of schools or the president of the school board
180 to the juvenile officer of the county in which the alleged incident occurred.

181 14. The report shall be jointly investigated by the juvenile officer or a law
182 enforcement officer designated by the juvenile officer and the superintendent of
183 schools or, if the subject of the report is the superintendent of schools, by the
184 juvenile officer or a law enforcement officer designated by the juvenile officer and
185 the president of the school board or such president's designee.

186 15. The investigation shall begin no later than forty-eight hours after
187 notification from the **children's** division [of family services] is received, and
188 shall consist of, but need not be limited to, interviewing and recording statements
189 of the child and the child's parents or guardian within two working days after the
190 start of the investigation, of the school district personnel allegedly involved in the
191 report, and of any witnesses to the alleged incident.

192 16. The juvenile officer or a law enforcement officer designated by the
193 juvenile officer and the investigating school district personnel shall issue separate
194 reports of their findings and recommendations after the conclusion of the
195 investigation to the school board of the school district within seven days after
196 receiving notice from the **children's** division [of family services].

197 17. The reports shall contain a statement of conclusion as to whether the
198 report of alleged child abuse is substantiated or is unsubstantiated.

199 18. The school board shall consider the separate reports **referred to in**
200 **subsection 16 of this section** and shall issue its findings and conclusions and
201 the action to be taken, if any, within seven days after receiving the last of the two
202 reports. The findings and conclusions shall be made in substantially the
203 following form:

204 (1) The report of the alleged child abuse is unsubstantiated. The juvenile
205 officer or a law enforcement officer designated by the juvenile officer and the
206 investigating school board personnel agree that [the evidence shows that no]
207 **there was not a preponderance of evidence to substantiate that** abuse
208 occurred;

209 (2) The report of the alleged child abuse is substantiated. The juvenile
210 officer or a law enforcement officer designated by the juvenile officer and the
211 investigating school district personnel agree that the **preponderance of**
212 evidence is sufficient to support a finding that the alleged incident of child abuse
213 did occur;

214 (3) The issue involved in the alleged incident of child abuse is
215 unresolved. The juvenile officer or a law enforcement officer designated by the
216 juvenile officer and the investigating school personnel are unable to agree on

217 their findings and conclusions on the alleged incident.

218 [11.] **19.** The findings and conclusions of the school board **under**
219 **subsection 18 of this section** shall be sent to the **children's** division [of
220 family services]. If the findings and conclusions of the school board are that the
221 report of the alleged child abuse is unsubstantiated, the investigation shall be
222 terminated, the case closed, and no record shall be entered in the **children's**
223 division [of family services] central registry **unless the allegations contain**
224 **an element of sexual misconduct, in which case the record of the**
225 **allegations and the report of it being unsubstantiated shall be retained**
226 **in the information system of the children's division under paragraph**
227 **(c) of subdivision (2) of subsection 1 of section 210.152, RSMo.** If the
228 findings and conclusions of the school board are that the report of the alleged
229 child abuse is substantiated, the **children's** division [of family services] shall
230 report the incident to the prosecuting attorney of the appropriate county along
231 with the findings and conclusions of the school district and shall include the
232 information in the division's central registry. If the findings and conclusions of
233 the school board are that the issue involved in the alleged incident of child abuse
234 is unresolved, the **children's** division [of family services] shall report the
235 incident to the prosecuting attorney of the appropriate county along with the
236 findings and conclusions of the school board[,]; however, the incident and the
237 names of the parties allegedly involved shall not be entered into the **division's**
238 central registry [of the division of family services] unless and until the alleged
239 child abuse is substantiated by a court of competent jurisdiction **except if the**
240 **allegations contain an element of sexual misconduct, in which case the**
241 **record of the allegations and the report of it being unresolved shall be**
242 **retained in the information system of the children's division under**
243 **paragraph (c) of subdivision (2) of subsection 1 of section 210.152,**
244 **RSMo.**

245 [12.] **20.** Any superintendent of schools, president of a school board or
246 such person's designee or juvenile officer who knowingly falsifies any report of
247 any matter pursuant to this section or who knowingly withholds any information
248 relative to any investigation or report pursuant to this section is guilty of a class
249 A misdemeanor. **Any mandated reporter under subsection 1 of section**
250 **210.115, RSMo, who is a school officer or employee, who fails to report**
251 **as required in this section shall be subject to a fine of up to five**
252 **thousand dollars or one year in jail or both. Any student who makes a**

253 false allegation under this section shall be subject to disciplinary
254 action by school policy, including the attachment of a notice of the false
255 allegation to the student's permanent record.

256 [13.] 21. In order to ensure the safety of all students, should a student
257 be expelled for bringing a weapon to school, violent behavior, or for an act of
258 school violence, that student shall not, for the purposes of the accreditation
259 process of the Missouri school improvement plan, be considered a dropout or be
260 included in the calculation of that district's educational persistence ratio.

160.262. 1. The office of the child advocate as created in section
2 37.705, RSMo, shall be authorized to coordinate mediation efforts
3 between school districts and students when requested by either party,
4 as part of its duties under subdivision (9) of subsection 2 of section
5 37.710, RSMo, when allegations of child abuse arise in a school
6 setting. The office of the child advocate shall maintain a list of
7 individuals who are qualified mediators. The child care advocate shall
8 be available as one of the mediators on the list from which parents can
9 choose.

10 2. Mediation procedures shall meet the following requirements:

11 (1) The mediation process shall not be used to deny or delay any
12 other complaint process available to the parties; and

13 (2) The mediation process shall be conducted by a qualified and
14 impartial mediator trained in effective mediation techniques who is not
15 affiliated with schools or school professional associations and who is
16 available as a public service.

17 3. No student or parent of a student shall be required to enter
18 into mediation, but a school district shall be required to participate in
19 mediation if a parent asks for it on behalf of a student who has
20 reported sexual abuse. A goal of protecting a student from
21 unwarranted attention shall be a priority, up to and including
22 attendance by contract at a different school or school district. The
23 department may direct the average daily attendance of a student to be
24 counted in the receiving district. Participation by a student in student
25 activities at such school or in such school district under this section
26 shall be on the basis of a resident student of the school or district.

27 4. Each session in the mediation process shall be scheduled in a
28 timely manner and be held in a location that is convenient to the
29 parties in dispute.

30 **5. Discussions that occur during the mediation process shall be**
31 **confidential and may not be used as evidence in any subsequent**
32 **administrative proceeding, administrative hearing, or civil proceeding**
33 **of any federal or state court.**

34 **6. If the parties resolve a dispute through the mediation process,**
35 **the parties shall execute a legally binding agreement that sets forth the**
36 **resolution and:**

37 **(1) States that all discussions that occurred during the mediation**
38 **process shall remain confidential and may not be used as evidence in**
39 **any subsequent administrative proceeding, administrative hearing, or**
40 **civil proceeding of any federal or state court; and**

41 **(2) Is signed by a representative of each party who has authority**
42 **to bind the party.**

162.014. No person shall be a candidate for or a member or
2 **director of the school board in any school district in this state if such**
3 **person is registered or is required to be registered as a sex offender**
4 **under sections 589.400 to 589.425, RSMo.**

162.068. 1. Beginning July 1, 2010, for any employee who is
2 **required under section 168.133, RSMo, to undergo a background check**
3 **and register with the family care safety registry, a school district shall**
4 **include in the employment application a waiver that, when signed by**
5 **the applicant, shall permit the school district to access any closed**
6 **records relating to the applicant in the child abuse registry or**
7 **information system if there are at least two records or reports of**
8 **unsubstantiated or unresolved incidents. The department of social**
9 **services shall develop the waiver form and cooperate with the**
10 **department of elementary and secondary education to ensure its**
11 **distribution for use by school districts. No applicant for employment**
12 **shall be required to sign the waiver to be considered for employment.**

13 **2. By July 1, 2010, every school district shall adopt a written**
14 **policy on information that the district provides about former**
15 **employees, both certificated and noncertificated, to other potential**
16 **employers. The policy shall include who is permitted to respond to**
17 **requests for information from potential employers and the information**
18 **the district would provide when responding to such a request. The**
19 **policy shall require that notice of this provision be provided to all**
20 **current employees and to all potential employers who contact the**

21 school district regarding the possible employment of a school district
22 employee.

23 3. Any school district employee who reports on or discusses
24 employee job performance for the purposes of making employment
25 decisions that affect the safety and overall well-being of students and
26 who does so in conformity with district policy, in good faith, and
27 without malice shall not be subject to an action for civil damages as a
28 result thereof, and no cause of action shall arise against him or her as
29 a result of his or her conduct under this section. The attorney general
30 shall defend such persons in any such action or proceeding, except that
31 if the attorney general represents the school district or the department
32 of elementary and secondary education in a pending licensing matter
33 under section 168.071, RSMo, the attorney general shall not represent
34 the school district employee.

35 4. Notwithstanding the provisions of subsection 2 of this section,
36 if a district that has employed any employee whose job involves contact
37 with children receives allegations of sexual misconduct concerning the
38 employee and dismisses the employee or allows the employee to resign
39 in lieu of being fired and fails to disclose the allegations of sexual
40 misconduct when furnishing a reference for the former employee, the
41 district shall be directly liable for damages to any student of a
42 subsequent employing district who is found by a court of competent
43 jurisdiction to be a victim of the former employee's sexual misconduct,
44 and the district shall bear third-party liability to the employing district
45 for a failure to disclose the information.

162.069. 1. Every school district shall, by January 1, 2010,
2 promulgate a written policy concerning teacher-student communication
3 and employee-student communication. Such policy shall contain at
4 least the following elements:

5 (1) Appropriate oral and nonverbal personal communication,
6 which may be combined with or included in any policy on sexual
7 harassment; and

8 (2) Appropriate use of electronic media such as text messaging
9 and Internet sites for both instructional and personal purposes, with
10 an element concerning use of social networking sites no less stringent
11 than the provisions of subsections 2, 3, and 4 of this section.

12 2. As used in this section, the following terms shall mean:

13 (1) "Exclusive access", the information on the web site is
14 available only to the owner (teacher) and user (student) by mutual
15 explicit consent and where third parties have no access to the
16 information on the web site absent an explicit consent agreement with
17 the owner (teacher);

18 (2) "Former student", any person who was at one time a student
19 at the school at which the teacher is employed and who is eighteen
20 years of age or less and who has not graduated;

21 (3) "Nonwork-related Internet site", any Internet web site or web
22 page used by a teacher primarily for personal purposes and not for
23 educational purposes;

24 (4) "Work-related Internet site", any Internet web site or web
25 pages used by a teacher for educational purposes.

26 3. No teacher shall establish, maintain, or use a work-related
27 Internet site unless such site is available to school administrators and
28 parents.

29 4. No teacher shall establish, maintain, or use a nonwork-related
30 Internet site which allows exclusive access with a current or former
31 student.

32 5. Every school district shall, by July 1, 2010, include in its
33 teacher and employee training, a component that provides up-to-date
34 and reliable information on identifying signs of sexual abuse in
35 children and danger signals of potentially abusive relationships
36 between children and adults. The training shall emphasize the
37 importance of mandatory reporting of abuse under section 210.115,
38 RSMo, including the obligation of mandated reporters to report
39 suspected abuse by other mandated reporters, and how to establish an
40 atmosphere of trust so that students feel their school has concerned
41 adults with whom they feel comfortable discussing matters related to
42 abuse.

168.021. 1. Certificates of license to teach in the public schools of the
2 state shall be granted as follows:

3 (1) By the state board, under rules and regulations prescribed by it:

4 (a) Upon the basis of college credit;

5 (b) Upon the basis of examination;

6 (2) By the state board, under rules and regulations prescribed by the state
7 board with advice from the advisory council established by section 168.015 to any

8 individual who presents to the state board a valid doctoral degree from an
9 accredited institution of higher education accredited by a regional accrediting
10 association such as North Central Association. Such certificate shall be limited
11 to the major area of postgraduate study of the holder, shall be issued only after
12 successful completion of the examination required for graduation pursuant to
13 rules adopted by the state board of education, and shall be restricted to those
14 certificates established pursuant to subdivision (1) of subsection 3 of this section;

15 (3) By the state board, which shall issue the professional certificate
16 classification in both the general and specialized areas most closely aligned with
17 the current areas of certification approved by the state board, commensurate with
18 the years of teaching experience of the applicant, and based upon the following
19 criteria:

20 (a) Recommendation of a state-approved baccalaureate-level teacher
21 preparation program;

22 (b) Successful attainment of the Missouri qualifying score on the exit
23 assessment for teachers or administrators designated by the state board of
24 education. Applicants who have not successfully achieved a qualifying score on
25 the designated examinations will be issued a two-year nonrenewable provisional
26 certificate; and

27 (c) Upon completion of a background check **as prescribed in section**
28 **168.133** and possession of a valid teaching certificate in the state from which the
29 applicant's teacher preparation program was completed; or

30 (4) By the state board, under rules and regulations prescribed by it, on
31 the basis of certification by the American Board for Certification of Teacher
32 Excellence (ABCTE) and verification of ability to work with children as
33 demonstrated by sixty contact hours in any one of the following areas as validated
34 by the school principal: sixty contact hours in the classroom, of which at least
35 forty-five must be teaching; sixty contact hours as a substitute teacher, with at
36 least thirty consecutive hours in the same classroom; sixty contact hours of
37 teaching in a private school; or sixty contact hours of teaching as a
38 paraprofessional, for an initial four-year ABCTE certificate of license to teach,
39 except that such certificate shall not be granted for the areas of early childhood
40 education, elementary education, or special education. Upon the completion of
41 the requirements listed in paragraphs (a), (b), (c), and (d) of this subdivision, an
42 applicant shall be eligible to apply for a career continuous professional certificate
43 under subdivision (2) of subsection 3 of this section:

44 (a) Completion of thirty contact hours of professional development within
45 four years, which may include hours spent in class in an appropriate college
46 curriculum;

47 (b) Validated completion of two years of the mentoring program of the
48 American Board for Certification of Teacher Excellence or a district mentoring
49 program approved by the state board of education;

50 (c) Attainment of a successful performance-based teacher evaluation; and

51 (d) Participate in a beginning teacher assistance program.

52 2. All valid teaching certificates issued pursuant to law or state board
53 policies and regulations prior to September 1, 1988, shall be exempt from the
54 professional development requirements of this section and shall continue in effect
55 until they expire, are revoked or suspended, as provided by law. When such
56 certificates are required to be renewed, the state board or its designee shall grant
57 to each holder of such a certificate the certificate most nearly equivalent to the
58 one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or
59 continuous professional certificate shall, upon expiration of his or her current
60 certificate, be issued the appropriate level of certificate based upon the
61 classification system established pursuant to subsection 3 of this section.

62 3. Certificates of license to teach in the public schools of the state shall
63 be based upon minimum requirements prescribed by the state board of education
64 **which shall include successful completion of a background check as**
65 **prescribed in section 168.133.** The state board shall provide for the following
66 levels of professional certification: an initial professional certificate and a career
67 continuous professional certificate.

68 (1) The initial professional certificate shall be issued upon completion of
69 requirements established by the state board of education and shall be valid based
70 upon verification of actual teaching within a specified time period established by
71 the state board of education. The state board shall require holders of the
72 four-year initial professional certificate to:

73 (a) Participate in a mentoring program approved and provided by the
74 district for a minimum of two years;

75 (b) Complete thirty contact hours of professional development, which may
76 include hours spent in class in an appropriate college curriculum; and

77 (c) Participate in a beginning teacher assistance program;

78 (2) (a) The career continuous professional certificate shall be issued upon
79 verification of completion of four years of teaching under the initial professional

80 certificate and upon verification of the completion of the requirements articulated
81 in paragraphs (a), (b), and (c) of subdivision (1) of this subsection or paragraphs
82 (a), (b), (c), and (d) of subdivision (4) of subsection 1 of this section.

83 (b) The career continuous professional certificate shall be continuous
84 based upon verification of actual employment in an educational position as
85 provided for in state board guidelines and completion of fifteen contact hours of
86 professional development per year which may include hours spent in class in an
87 appropriate college curriculum. Should the possessor of a valid career continuous
88 professional certificate fail, in any given year, to meet the fifteen-hour
89 professional development requirement, the possessor may, within two years, make
90 up the missing hours. In order to make up for missing hours, the possessor shall
91 first complete the fifteen-hour requirement for the current year and then may
92 count hours in excess of the current year requirement as make-up hours. Should
93 the possessor fail to make up the missing hours within two years, the certificate
94 shall become inactive. In order to reactivate the certificate, the possessor shall
95 complete twenty-four contact hours of professional development which may
96 include hours spent in the classroom in an appropriate college curriculum within
97 the six months prior to or after reactivating his or her certificate. The
98 requirements of this paragraph shall be monitored and verified by the local school
99 district which employs the holder of the career continuous professional certificate.

100 (c) A holder of a career continuous professional certificate shall be exempt
101 from the professional development contact hour requirements of paragraph (b) of
102 this subdivision if such teacher has a local professional development plan in place
103 within such teacher's school district and meets two of the three following criteria:

- 104 a. Has ten years of teaching experience as defined by the state board of
105 education;
- 106 b. Possesses a master's degree; or
- 107 c. Obtains a rigorous national certification as approved by the state board
108 of education.

109 4. Policies and procedures shall be established by which a teacher who
110 was not retained due to a reduction in force may retain the current level of
111 certification. There shall also be established policies and procedures allowing a
112 teacher who has not been employed in an educational position for three years or
113 more to reactivate his or her last level of certification by completing twenty-four
114 contact hours of professional development which may include hours spent in the
115 classroom in an appropriate college curriculum within the six months prior to or

116 after reactivating his or her certificate.

117 5. The state board shall, upon [an appropriate] **completion of a**
118 **background check as prescribed in section 168.133**, issue a professional
119 certificate classification in the areas most closely aligned with an applicant's
120 current areas of certification, commensurate with the years of teaching experience
121 of the applicant, to any person who is hired to teach in a public school in this
122 state and who possesses a valid teaching certificate from another state, provided
123 that the certificate holder shall annually complete the state board's requirements
124 for such level of certification, and shall establish policies by which residents of
125 states other than the state of Missouri may be assessed a fee for a certificate
126 license to teach in the public schools of Missouri. Such fee shall be in an amount
127 sufficient to recover any or all costs associated with the issuing of a certificate of
128 license to teach. The board shall promulgate rules to authorize the issuance of
129 a provisional certificate of license, which shall allow the holder to assume
130 classroom duties pending the completion of a criminal background check under
131 section 168.133, for any applicant who:

- 132 (1) Is the spouse of a member of the armed forces stationed in Missouri;
133 (2) Relocated from another state within one year of the date of
134 application;
135 (3) Underwent a criminal background check in order to be issued a
136 teaching certificate of license from another state; and
137 (4) Otherwise qualifies under this section.

138 6. The state board may assess to holders of an initial professional
139 certificate a fee, to be deposited into the excellence in education revolving fund
140 established pursuant to section 160.268, RSMo, for the issuance of the career
141 continuous professional certificate. However, such fee shall not exceed the
142 combined costs of issuance and any criminal background check required as a
143 condition of issuance. Applicants for the initial ABCTE certificate shall be
144 responsible for any fees associated with the program leading to the issuance of
145 the certificate, but nothing in this section shall prohibit a district from developing
146 a policy that permits fee reimbursement.

147 7. Any member of the public school retirement system of Missouri who
148 entered covered employment with ten or more years of educational experience in
149 another state or states and held a certificate issued by another state and
150 subsequently worked in a school district covered by the public school retirement
151 system of Missouri for ten or more years who later became certificated in

152 Missouri shall have that certificate dated back to his or her original date of
153 employment in a Missouri public school.

154 8. The provisions of subdivision (4) of subsection 1 of this section, as well
155 as any other provision of this section relating to the American Board for
156 Certification of Teacher Excellence, shall terminate on August 28, 2014.

168.071. 1. The state board of education may refuse to issue or renew a
2 certificate, or may, upon hearing, discipline the holder of a certificate of license
3 to teach for the following causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been
5 found guilty of a felony or crime involving moral turpitude under the laws of this
6 state, any other state, of the United States, or any other country, whether or not
7 sentence is imposed;

8 (2) The certification was obtained through use of fraud, deception,
9 misrepresentation or bribery;

10 (3) There is evidence of incompetence, immorality, or neglect of duty by
11 the certificate holder;

12 (4) A certificate holder has been subject to disciplinary action relating to
13 certification issued by another state, territory, federal agency, or country upon
14 grounds for which discipline is authorized in this section; or

15 (5) If charges are filed by the local board of education, based upon the
16 annulling of a written contract with the local board of education, for reasons other
17 than election to the general assembly, without the consent of the majority of the
18 members of the board that is a party to the contract.

19 2. A public school district may file charges seeking the discipline of a
20 holder of a certificate of license to teach based upon any cause or combination of
21 causes outlined in subsection 1 of this section, including annulment of a written
22 contract. Charges shall be in writing, specify the basis for the charges, and be
23 signed by the chief administrative officer of the district, or by the president of the
24 board of education as authorized by a majority of the board of education. The
25 board of education may also petition the office of the attorney general to file
26 charges on behalf of the school district for any cause other than annulment of
27 contract, with acceptance of the petition at the discretion of the attorney general.

28 3. The department of elementary and secondary education may file
29 charges seeking the discipline of a holder of a certificate of license to teach based
30 upon any cause or combination of causes outlined in subsection 1 of this section,
31 other than annulment of contract. Charges shall be in writing, specify the basis

32 for the charges, and be signed by legal counsel representing the department of
33 elementary and secondary education.

34 4. If the underlying conduct or actions which are the basis for charges
35 filed pursuant to this section are also the subject of a pending criminal charge
36 against the person holding such certificate, the certificate holder may request, in
37 writing, a delayed hearing on advice of counsel under the fifth amendment of the
38 Constitution of the United States. Based upon such a request, no hearing shall
39 be held until after a trial has been completed on this criminal charge.

40 5. The certificate holder shall be given not less than thirty days' notice of
41 any hearing held pursuant to this section.

42 6. Other provisions of this section notwithstanding, the certificate of
43 license to teach shall be revoked or, in the case of an applicant, a certificate shall
44 not be issued, if the certificate holder or applicant has pleaded guilty to or been
45 found guilty of any of the following offenses established pursuant to Missouri law
46 or offenses of a similar nature established under the laws of any other state or
47 of the United States, or any other country, whether or not the sentence is
48 imposed:

49 (1) Any dangerous felony as defined in section 556.061, RSMo, or murder
50 in the first degree **under section 565.020, RSMo;**

51 (2) Any of the following sexual offenses: rape **under section 566.030,**
52 **RSMo;** statutory rape in the first degree **under section 566.032, RSMo;**
53 statutory rape in the second degree **under section 566.034, RSMo;** sexual
54 assault **under section 566.040, RSMo;** forcible sodomy **under section**
55 **566.060, RSMo;** statutory sodomy in the first degree **under section 566.062,**
56 **RSMo;** statutory sodomy in the second degree **under section 566.064, RSMo;**
57 child molestation in the first degree **under section 566.067, RSMo;** child
58 molestation in the second degree **under section 566.068, RSMo;** deviate sexual
59 assault **under section 566.070, RSMo;** sexual misconduct involving a child
60 **under section 566.083, RSMo;** sexual contact with a student while on
61 **public school property under section 566.086, RSMo;** sexual misconduct in
62 the first degree **under section 566.090, RSMo;** sexual misconduct in the
63 **second degree under section 566.093, RSMo;** sexual misconduct in the
64 **third degree under section 566.095, RSMo;** sexual abuse **under section**
65 **565.100, RSMo;** enticement of a child **under section 566.151, RSMo;** or
66 attempting to entice a child;

67 (3) Any of the following offenses against the family and related offenses:

68 incest **under section 568.020, RSMo**; abandonment of child in the first degree
69 **under section 568.030, RSMo**; abandonment of child in the second degree
70 **under section 568.032, RSMo**; endangering the welfare of a child in the first
71 degree **under section 568.045, RSMo**; abuse of a child **under section 568.060,**
72 **RSMo**; child used in a sexual performance **under section 568.080, RSMo**;
73 promoting sexual performance by a child **under section 568.090, RSMo**; or
74 trafficking in children **under section 568.175, RSMo**; and

75 (4) Any of the following offenses involving child pornography and related
76 offenses: promoting obscenity in the first degree **under section 573.020, RSMo**;
77 promoting obscenity in the second degree when the penalty is enhanced to a class
78 D felony **under section 573.030, RSMo**; promoting child pornography in the
79 first degree **under section 573.025, RSMo**; promoting child pornography in the
80 second degree **under section 573.035, RSMo**; possession of child pornography
81 [in the first degree] **under section 573.037, RSMo**; [possession of child
82 pornography in the second degree; furnishing child pornography to a minor;]
83 furnishing pornographic materials to minors **under section 573.040, RSMo**; or
84 coercing acceptance of obscene material **under section 573.065, RSMo**.

85 7. When a certificate holder pleads guilty or is found guilty of any offense
86 that would authorize the state board of education to seek discipline against that
87 holder's certificate of license to teach, the local board of education or the
88 department of elementary and secondary education shall immediately provide
89 written notice to the state board of education and the attorney general regarding
90 the plea of guilty or finding of guilty.

91 8. The certificate holder whose certificate was revoked pursuant to
92 subsection 6 of this section may appeal such revocation to the state board of
93 education. Notice of this appeal must be received by the commissioner of
94 education within ninety days of notice of revocation pursuant to this
95 subsection. Failure of the certificate holder to notify the commissioner of the
96 intent to appeal waives all rights to appeal the revocation. Upon notice of the
97 certificate holder's intent to appeal, an appeal hearing shall be held by a hearing
98 officer designated by the commissioner of education, with the final decision made
99 by the state board of education, based upon the record of that hearing. The
100 certificate holder shall be given not less than thirty days' notice of the hearing,
101 and an opportunity to be heard by the hearing officer, together with witnesses.

102 9. In the case of any certificate holder who has surrendered or failed to
103 renew his or her certificate of license to teach, the state board of education may

104 refuse to issue or renew, or may suspend or revoke, such certificate for any of the
105 reasons contained in this section.

106 10. In those cases where the charges filed pursuant to this section are
107 based upon an allegation of misconduct involving a minor child, the hearing
108 officer may accept into the record the sworn testimony of the minor child relating
109 to the misconduct received in any court or administrative hearing.

110 11. Hearings, appeals or other matters involving certificate holders,
111 licensees or applicants pursuant to this section may be informally resolved by
112 consent agreement or agreed settlement or voluntary surrender of the certificate
113 of license pursuant to the rules promulgated by the state board of education.

114 12. The final decision of the state board of education is subject to judicial
115 review pursuant to sections 536.100 to 536.140, RSMo.

116 13. A certificate of license to teach to an individual who has been
117 convicted of a felony or crime involving moral turpitude, whether or not sentence
118 is imposed, shall be issued only upon motion of the state board of education
119 adopted by a unanimous affirmative vote of those members present and voting.

168.133. 1. The school district shall ensure that a criminal background
2 check is conducted on any person employed after January 1, 2005, authorized to
3 have contact with pupils and prior to the individual having contact with any
4 pupil. Such persons include, but are not limited to, administrators, teachers,
5 aides, paraprofessionals, assistants, secretaries, custodians, cooks, and
6 nurses. The school district shall also ensure that a criminal background check
7 is conducted for school bus drivers. The district may allow such drivers to
8 operate buses pending the result of the criminal background check. For bus
9 drivers, the background check shall be conducted on drivers employed by the
10 school district or employed by a pupil transportation company under contract
11 with the school district. **Personnel who have successfully undergone a**
12 **criminal background check and a check of the family care safety**
13 **registry as part of the professional license application process under**
14 **section 168.021 and who have received clearance on the checks within**
15 **the past year shall be considered to have completed the background**
16 **check requirement.**

17 2. In order to facilitate the criminal history background check [on any
18 person employed after January 1, 2005], the applicant shall submit [two sets] a
19 set of fingerprints collected pursuant to standards determined by the Missouri
20 highway patrol. [One set of] **The** fingerprints shall be used by the highway

21 patrol to search the criminal history repository [and the family care safety
22 registry pursuant to sections 210.900 to 210.936, RSMo,] and [the second set]
23 shall be forwarded to the Federal Bureau of Investigation for searching the
24 federal criminal history files. **In addition to the state and federal criminal
25 background check, any employee employed after July 1, 2010, and
26 required by the provisions of subsection 1 of this section to undergo a
27 criminal background check shall be required to register with the family
28 care safety registry under the provisions of sections 210.900 to 210.936,
29 RSMo.**

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

37 4. **The department of elementary and secondary education shall
38 facilitate an annual check of employed persons holding current active
39 certificates under section 168.021 against criminal history records in
40 the central repository under section 43.530, RSMo, the sexual offender
41 registry under sections 589.400 to 589.475, RSMo, and child abuse
42 central registry under sections 210.900 to 210.936, RSMo. The
43 department of elementary and secondary education shall facilitate
44 procedures for school districts to submit personnel information
45 annually for persons employed by the school districts who do not hold
46 a current valid certificate who are required by subsection 1 of this
47 section to undergo a criminal background check, sexual offender
48 registry check, and child abuse central registry check. The Missouri
49 state highway patrol shall provide ongoing electronic updates to
50 criminal history background checks of those persons previously
51 submitted, both those who have an active certificate and those that do
52 not have an active certificate, by the department of elementary and
53 secondary education. This shall fulfill the annual check against the
54 criminal history records in the central repository under section 43.530,
55 RSMo.**

56 5. The school district may adopt a policy to provide for reimbursement of

57 expenses incurred by an employee for state and federal criminal history
58 information pursuant to section 43.530, RSMo.

59 [5.] 6. If, as a result of the criminal history background check mandated
60 by this section, it is determined that the holder of a certificate issued pursuant
61 to section 168.021 has pled guilty or nolo contendere to, or been found guilty of
62 a crime or offense listed in section 168.071, or a similar crime or offense
63 committed in another state, the United States, or any other country, regardless
64 of imposition of sentence, such information shall be reported to the department
65 of elementary and secondary education.

66 [6.] 7. Any school official making a report to the department of
67 elementary and secondary education in conformity with this section shall not be
68 subject to civil liability for such action.

69 [7.] 8. For any teacher who is employed by a school district on a
70 substitute or part-time basis within one year of such teacher's retirement from
71 a Missouri school, the state of Missouri shall not require such teacher to be
72 subject to any additional background checks prior to having contact with
73 pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
74 restricting a school district from requiring additional background checks for such
75 teachers employed by the school district.

76 [8.] 9. Nothing in this section shall be construed to alter the standards
77 for suspension, denial, or revocation of a certificate issued pursuant to this
78 chapter.

79 [9.] 10. The state board of education may promulgate rules for criminal
80 history background checks made pursuant to this section. Any rule or portion of
81 a rule, as that term is defined in section 536.010, RSMo, that is created under the
82 authority delegated in this section shall become effective only if it complies with
83 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
84 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
85 and if any of the powers vested with the general assembly pursuant to chapter
86 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
87 rule are subsequently held unconstitutional, then the grant of rulemaking
88 authority and any rule proposed or adopted after January 1, 2005, shall be
89 invalid and void.

210.135. 1. Any person, official, or institution complying with the
2 provisions of sections 210.110 to 210.165 in the making of a report, the taking of
3 color photographs, or the making of radiologic examinations pursuant to sections

4 210.110 to 210.165, or both such taking of color photographs and making of
5 radiologic examinations, or the removal or retaining a child pursuant to sections
6 210.110 to 210.165, or in cooperating with the division, or any other law
7 enforcement agency, juvenile office, court, or child-protective service agency of
8 this or any other state, in any of the activities pursuant to sections 210.110 to
9 210.165, or any other allegation of child abuse, neglect or assault, pursuant to
10 sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil
11 or criminal, that otherwise might result by reason of such actions. Provided,
12 however, any person, official or institution intentionally filing a false report,
13 acting in bad faith, or with ill intent, shall not have immunity from any liability,
14 civil or criminal. Any such person, official, or institution shall have the same
15 immunity with respect to participation in any judicial proceeding resulting from
16 the report.

17 **2. Any person, who is not a school district employee, who makes**
18 **a report to a school administrator of child abuse by a school employee**
19 **shall have immunity from any liability, civil or criminal, that otherwise**
20 **might result because of such report. Provided, however, that any such**
21 **person who makes a false report, knowing that the report is false, or**
22 **who acts in bad faith or with ill intent in making such report shall not**
23 **have immunity from any liability, civil or criminal. Any such person**
24 **shall have the same immunity with respect to participation in any**
25 **judicial proceeding resulting from the report.**

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;
4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;
6 (3) Providing due process for those accused of child abuse or neglect; and
7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols
14 developed by the division shall give priority to ensuring the well-being and safety

15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

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

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

44 5. The local office of the division shall cause an investigation or family
45 assessment and services approach to be initiated in accordance with the protocols
46 established in subsection 2 of this section, except in cases where the sole basis for
47 the report is educational neglect. If the report indicates that educational neglect
48 is the only complaint and there is no suspicion of other neglect or abuse, the
49 investigation shall be initiated within seventy-two hours of receipt of the report. If
50 the report indicates the child is in danger of serious physical harm or threat to

51 life, an investigation shall include direct observation of the subject child within
52 twenty-four hours of the receipt of the report. Local law enforcement shall take
53 all necessary steps to facilitate such direct observation. If the parents of the
54 child are not the alleged abusers, a parent of the child must be notified prior to
55 the child being interviewed by the division. If the abuse is alleged to have
56 occurred in a school or child-care facility the division shall not meet with the
57 child in any school building or child-care facility building where abuse of such
58 child is alleged to have occurred. When the child is reported absent from the
59 residence, the location and the well-being of the child shall be verified. For
60 purposes of this subsection, child-care facility shall have the same meaning as
61 such term is defined in section 210.201.

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

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

85 8. When a report has been made by a person required to report under
86 section 210.115, the division shall contact the person who made such report

87 within forty-eight hours of the receipt of the report in order to ensure that full
88 information has been received and to obtain any additional information or
89 medical records, or both, that may be pertinent.

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

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

100 11. For all family support team meetings involving an alleged victim of
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,
102 the legal guardian or custodian of the child, the guardian ad litem for the child,
103 and the volunteer advocate for the child shall be provided notice and be permitted
104 to attend all such meetings. Family members, other than alleged perpetrators,
105 or other community informal or formal service providers that provide significant
106 support to the child and other individuals may also be invited at the discretion
107 of the parents of the child. In addition, the parents, the legal counsel for the
108 parents, the legal guardian or custodian and the foster parents may request that
109 other individuals, other than alleged perpetrators, be permitted to attend such
110 team meetings. Once a person is provided notice of or attends such team
111 meetings, the division or the convenor of the meeting shall provide such persons
112 with notice of all such subsequent meetings involving the child. Families may
113 determine whether individuals invited at their discretion shall continue to be
114 invited.

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

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

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

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

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

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

145 14. Within thirty days of an oral report of abuse or neglect, the local office
146 shall update the information in the information system. The information system
147 shall contain, at a minimum, the determination made by the division as a result
148 of the investigation, identifying information on the subjects of the report, those
149 responsible for the care of the subject child and other relevant dispositional
150 information. The division shall complete all investigations within thirty days,
151 unless good cause for the failure to complete the investigation is documented in
152 the information system. If a child involved in a pending investigation dies, the
153 investigation shall remain open until the division's investigation surrounding the
154 death is completed. If the investigation is not completed within thirty days, the
155 information system shall be updated at regular intervals and upon the completion
156 of the investigation. The information in the information system shall be updated
157 to reflect any subsequent findings, including any changes to the findings based
158 on an administrative or judicial hearing on the matter.

159 15. A person required to report under section 210.115 to the division and
160 any person making a report of child abuse or neglect made to the division which
161 is not made anonymously shall be informed by the division of his or her right to
162 obtain information concerning the disposition of his or her report. Such person
163 shall receive, from the local office, if requested, information on the general
164 disposition of his or her report. Such person may receive, if requested, findings
165 and information concerning the case. Such release of information shall be at the
166 discretion of the director based upon a review of the reporter's ability to assist in
167 protecting the child or the potential harm to the child or other children within the
168 family. The local office shall respond to the request within forty-five days. The
169 findings shall be made available to the reporter within five days of the outcome
170 of the investigation. If the report is determined to be unsubstantiated, the
171 reporter may request that the report be referred by the division to the office of
172 child advocate for children's protection and services established in sections 37.700
173 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
174 shall refer an unsubstantiated report of child abuse or neglect to the office of
175 child advocate for children's protection and services.

176 **16. The division shall provide to any individual, who is not**
177 **satisfied with the results of an investigation, information about the**
178 **office of the child advocate and services it may provide, under sections**
179 **37.700 to 37.730, RSMo.**

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

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

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

191 **[17.] 18.** In any judicial proceeding involving the custody of a child where
192 the court determines that the child is in need of services pursuant to subdivision
193 (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the
194 child's parent, guardian or custodian shall not be entered into the registry.

195 [18.] **19.** The children's division is hereby granted the authority to
196 promulgate rules and regulations pursuant to the provisions of section 207.021,
197 RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to
198 210.183.

199 [19.] **20.** Any rule or portion of a rule, as that term is defined in section
200 536.010, RSMo, that is created under the authority delegated in this section shall
201 become effective only if it complies with and is subject to all of the provisions of
202 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
203 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
204 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
205 date or to disapprove and annul a rule are subsequently held unconstitutional,
206 then the grant of rulemaking authority and any rule proposed or adopted after
207 August 28, 2000, shall be invalid and void.

 210.152. 1. All identifying information, including telephone reports
2 reported pursuant to section 210.145, relating to reports of abuse or neglect
3 received by the division shall be retained by the division and removed from the
4 records of the division as follows:

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

7 (2) (a) For investigation reports initiated against a person required to
8 report pursuant to section 210.115, where insufficient evidence of abuse or neglect
9 is found by the division and where the division determines the allegation of abuse
10 or neglect was made maliciously, for purposes of harassment or in retaliation for
11 the filing of a report by a person required to report, identifying information shall
12 be expunged by the division within forty-five days from the conclusion of the
13 investigation;

14 (b) For investigation reports, where insufficient evidence of abuse or
15 neglect is found by the division and where the division determines the allegation
16 of abuse or neglect was made maliciously, for purposes of harassment or in
17 retaliation for the filing of a report, identifying information shall be expunged by
18 the division within forty-five days from the conclusion of the investigation;

19 (c) For investigation reports initiated by a person required to report under
20 section 210.115, where insufficient evidence of abuse or neglect is found by the
21 division, identifying information shall be retained for five years from the
22 conclusion of the investigation. For all other investigation reports where
23 insufficient evidence of abuse or neglect is found by the division, identifying

24 information shall be retained for two years from the conclusion of the
25 investigation. Such reports shall include any exculpatory evidence known by the
26 division, including exculpatory evidence obtained after the closing of the case. At
27 the end of such time period, the identifying information shall be removed from
28 the records of the division and destroyed;

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

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

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

40 (1) That the division has determined by a probable cause finding prior to
41 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,
42 that abuse or neglect exists and that the division shall retain all identifying
43 information regarding the abuse or neglect; that such information shall remain
44 confidential and will not be released except to law enforcement agencies,
45 prosecuting or circuit attorneys, or as provided in section 210.150; that the
46 alleged perpetrator has sixty days from the date of receipt of the notice to seek
47 reversal of the division's determination through a review by the child abuse and
48 neglect review board as provided in subsection 3 of this section; or

49 (2) That the division has not made a probable cause finding or determined
50 by a preponderance of the evidence that abuse or neglect exists.

51 **3. The children's division may reopen a case for review at the**
52 **request of any party to the investigation if information is obtained that**
53 **the investigation was not properly conducted under this chapter or if**
54 **new information becomes available.**

55 4. Any person named in an investigation as a perpetrator who is
56 aggrieved by a determination of abuse or neglect by the division as provided in
57 this section may seek an administrative review by the child abuse and neglect
58 review board pursuant to the provisions of section 210.153. Such request for
59 review shall be made within sixty days of notification of the division's decision

60 under this section. In those cases where criminal charges arising out of facts of
61 the investigation are pending, the request for review shall be made within sixty
62 days from the court's final disposition or dismissal of the charges.

63 [4.] 5. In any such action for administrative review, the child abuse and
64 neglect review board shall sustain the division's determination if such
65 determination was supported by evidence of probable cause prior to August 28,
66 2004, or is supported by a preponderance of the evidence after August 28, 2004,
67 and is not against the weight of such evidence. The child abuse and neglect
68 review board hearing shall be closed to all persons except the parties, their
69 attorneys and those persons providing testimony on behalf of the parties.

70 [5.] 6. If the alleged perpetrator is aggrieved by the decision of the child
71 abuse and neglect review board, the alleged perpetrator may seek de novo judicial
72 review in the circuit court in the county in which the alleged perpetrator resides
73 and in circuits with split venue, in the venue in which the alleged perpetrator
74 resides, or in Cole County. If the alleged perpetrator is not a resident of the
75 state, proper venue shall be in Cole County. The case may be assigned to the
76 family court division where such a division has been established. The request for
77 a judicial review shall be made within sixty days of notification of the decision of
78 the child abuse and neglect review board decision. In reviewing such decisions,
79 the circuit court shall provide the alleged perpetrator the opportunity to appear
80 and present testimony. The alleged perpetrator may subpoena any witnesses
81 except the alleged victim or the reporter. However, the circuit court shall have
82 the discretion to allow the parties to submit the case upon a stipulated record.

83 [6.] 7. In any such action for administrative review, the child abuse and
84 neglect review board shall notify the child or the parent, guardian or legal
85 representative of the child that a review has been requested.

210.915. The department of corrections, the department of public safety,
2 the department of social services, **the department of elementary and**
3 **secondary education**, and the department of mental health shall collaborate
4 with the department to compare records on child-care, elder-care, mental health,
5 and personal-care workers, **including those individuals required to**
6 **undergo a background check under the provisions of section 168.133,**
7 **RSMo**, and the records of persons with criminal convictions and the background
8 checks pursuant to subdivisions (1) to (8) of subsection 2 of section 210.903, and
9 to enter into any interagency agreements necessary to facilitate the receipt of
10 such information and the ongoing updating of such information. The department

11 shall promulgate rules and regulations concerning such updating, including
12 subsequent background reviews as listed in subsection 1 of section 210.909.

210.922. The department of health and senior services, department of
2 mental health, **department of elementary and secondary education**, and
3 department of social services may use the registry information to carry out the
4 duties assigned to the department pursuant to this chapter and chapters **168**,
5 190, 195, 197, 198, 630, and 660, RSMo.

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under
3 **[must] may** be commenced **[within twenty years after the victim reaches the age**
4 **of eighteen unless the prosecutions are for forcible rape, attempted forcible rape,**
5 **forcible sodomy, kidnapping, or attempted forcible sodomy in which case such**
6 **prosecutions may be commenced]** at any time.

✓

Bill

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