

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 530

97TH GENERAL ASSEMBLY

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Reported from the Committee on Seniors, Families and Pensions, February 4, 2014, with recommendation that the Senate Committee Substitute do pass.

4301S.04C

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 211.183 and 211.447, RSMo, and to enact in lieu thereof two new sections relating to termination of parental rights.

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

Section A. Sections 211.183 and 211.447, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 211.183 and 211.447, to  
3 read as follows:

211.183. 1. In juvenile court proceedings regarding the removal of a child  
2 from his or her home, the court's order shall include a determination of whether  
3 the division of family services has made reasonable efforts to prevent or eliminate  
4 the need for removal of the child and, after removal, to make it possible for the  
5 child to return home. If the first contact with the family occurred during an  
6 emergency in which the child could not safely remain at home even with  
7 reasonable in-home services, the division shall be deemed to have made  
8 reasonable efforts to prevent or eliminate the need for removal.

9 2. "Reasonable efforts" means the exercise of reasonable diligence and care  
10 by the division to utilize all available services related to meeting the needs of the  
11 juvenile and the family. In determining reasonable efforts to be made and in  
12 making such reasonable efforts, the child's present and ongoing health and safety  
13 shall be the paramount consideration.

14 3. In support of its determination of whether reasonable efforts have been  
15 made, the court shall enter findings, including a brief description of what  
16 preventive or reunification efforts were made and why further efforts could or  
17 could not have prevented or shortened the separation of the family. The division

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

18 shall have the burden of demonstrating reasonable efforts.

19 4. The juvenile court may authorize the removal of the child even if the  
20 preventive and reunification efforts of the division have not been reasonable, but  
21 further efforts could not permit the child to remain at home.

22 5. Before a child may be removed from the parent, guardian, or custodian  
23 of the child by order of a juvenile court, excluding commitments to the division  
24 of youth services, the court shall in its orders:

25 (1) State whether removal of the child is necessary to protect the child  
26 and the reasons therefor;

27 (2) Describe the services available to the family before removal of the  
28 child, including in-home services;

29 (3) Describe the efforts made to provide those services relevant to the  
30 needs of the family before the removal of the child;

31 (4) State why efforts made to provide family services described did not  
32 prevent removal of the child; and

33 (5) State whether efforts made to prevent removal of the child were  
34 reasonable, based upon the needs of the family and child.

35 6. If continuation of reasonable efforts, as described in this section, is  
36 determined by the division to be inconsistent with establishing a permanent  
37 placement for the child, the division shall take such steps as are deemed  
38 necessary by the division, including seeking modification of any court order to  
39 modify the permanency plan for the child.

40 7. The division shall not be required to make reasonable efforts, as  
41 defined in this section, but has the discretion to make reasonable efforts if a court  
42 of competent jurisdiction has determined that:

43 (1) The parent has subjected the child to a severe act or recurrent acts of  
44 physical, emotional or sexual abuse toward the child, including an act of incest;  
45 or

46 (2) The parent has:

47 (a) Committed murder of another child of the parent;

48 (b) Committed voluntary manslaughter of another child of the parent;

49 (c) Aided or abetted, attempted, conspired or solicited to commit such a  
50 murder or voluntary manslaughter; or

51 (d) Committed a felony assault that resulted in serious bodily injury to  
52 the child or to another child of the parent; or

53 (3) **Aggravating factors that in the totality of circumstances**

54 **affect the fitness of the parent, including, but not limited to, alcohol or**  
55 **controlled substances dependency of the parent which prevents him or**  
56 **her from consistently providing the necessary care, custody, and**  
57 **control of the child and which in the totality of the circumstances**  
58 **appear to be not treatable such as to enable the parent to consistently**  
59 **provide such care, custody, and control. The court may consider, but**  
60 **is not limited to, the following factors under this subdivision:**

61 **(a) Previous history of child abandonment;**

62 **(b) Previous history of child maltreatment;**

63 **(c) Placement of the parent's other child or children in foster**  
64 **care or out of home placement;**

65 **(d) Prior failed efforts at reunification with the child at issue or**  
66 **another of the parent's child or children;**

67 **(e) History of giving birth to a newborn with fetal alcohol**  
68 **syndrome or a controlled substance exposed newborn;**

69 **(f) History of a parent's child or children testing positive for**  
70 **alcohol or a controlled substance at birth or anytime afterwards;**

71 **(g) Diminished motivation to parent the child at issue or another**  
72 **child or children of the parent;**

73 **(h) Past or current failed efforts at alcohol or controlled**  
74 **substance rehabilitation or refusal to enter an alcohol or controlled**  
75 **substance abuse rehabilitation facility; or**

76 **(i) Extended period of alcohol or controlled substance abuse; or**

77 **(4) The parent's parental rights to a sibling have been involuntarily**  
78 **terminated.**

79 8. If the court determines that reasonable efforts, as described in this  
80 section, are not required to be made by the division, the court shall hold a  
81 permanency hearing within thirty days after the court has made such  
82 determination. The division shall complete whatever steps are necessary to  
83 finalize the permanent placement of the child.

84 9. The division may concurrently engage in reasonable efforts, as  
85 described in this section, while engaging in such other measures as are deemed  
86 appropriate by the division to establish a permanent placement for the child.

211.447. 1. Any information that could justify the filing of a petition to  
2 terminate parental rights may be referred to the juvenile officer by any  
3 person. The juvenile officer shall make a preliminary inquiry and if it does not

4 appear to the juvenile officer that a petition should be filed, such officer shall so  
5 notify the informant in writing within thirty days of the referral. Such  
6 notification shall include the reasons that the petition will not be  
7 filed. Thereupon, the informant may bring the matter directly to the attention  
8 of the judge of the juvenile court by presenting the information in writing, and  
9 if it appears to the judge that the information could justify the filing of a petition,  
10 the judge may order the juvenile officer to take further action, including making  
11 a further preliminary inquiry or filing a petition.

12 2. Except as provided for in subsection 4 of this section, a petition to  
13 terminate the parental rights of the child's parent or parents shall be filed by the  
14 juvenile officer or the division, or if such a petition has been filed by another  
15 party, the juvenile officer or the division shall seek to be joined as a party to the  
16 petition, when:

17 (1) Information available to the juvenile officer or the division establishes  
18 that the child has been in foster care for at least fifteen of the most recent  
19 twenty-two months; or

20 (2) A court of competent jurisdiction has determined the child to be an  
21 abandoned infant. For purposes of this subdivision, an "infant" means any child  
22 one year of age or under at the time of filing of the petition. The court may find  
23 that an infant has been abandoned if:

24 (a) The parent has left the child under circumstances that the identity of  
25 the child was unknown and could not be ascertained, despite diligent searching,  
26 and the parent has not come forward to claim the child; or

27 (b) The parent has, without good cause, left the child without any  
28 provision for parental support and without making arrangements to visit or  
29 communicate with the child, although able to do so; or

30 (c) The parent has voluntarily relinquished a child under section 210.950;  
31 or

32 (3) A court of competent jurisdiction has determined that the parent has:

33 (a) Committed murder of another child of the parent; or

34 (b) Committed voluntary manslaughter of another child of the parent; or

35 (c) Aided or abetted, attempted, conspired or solicited to commit such a  
36 murder or voluntary manslaughter; or

37 (d) Committed a felony assault that resulted in serious bodily injury to  
38 the child or to another child of the parent.

39 3. A termination of parental rights petition shall be filed by the juvenile

40 officer or the division, or if such a petition has been filed by another party, the  
41 juvenile officer or the division shall seek to be joined as a party to the petition,  
42 within sixty days of the judicial determinations required in subsection 2 of this  
43 section, except as provided in subsection 4 of this section. Failure to comply with  
44 this requirement shall not deprive the court of jurisdiction to adjudicate a  
45 petition for termination of parental rights which is filed outside of sixty days.

46 4. If grounds exist for termination of parental rights pursuant to  
47 subsection 2 of this section, the juvenile officer or the division may, but is not  
48 required to, file a petition to terminate the parental rights of the child's parent  
49 or parents if:

50 (1) The child is being cared for by a relative; or

51 (2) There exists a compelling reason for determining that filing such a  
52 petition would not be in the best interest of the child, as documented in the  
53 permanency plan which shall be made available for court review; or

54 (3) The family of the child has not been provided such services as provided  
55 for in section 211.183.

56 5. The juvenile officer or the division may file a petition to terminate the  
57 parental rights of the child's parent when it appears that one or more of the  
58 following grounds for termination exist:

59 (1) The child has been abandoned. For purposes of this subdivision a  
60 "child" means any child over one year of age at the time of filing of the  
61 petition. The court shall find that the child has been abandoned if, for a period  
62 of six months or longer:

63 (a) The parent has left the child under such circumstances that the  
64 identity of the child was unknown and could not be ascertained, despite diligent  
65 searching, and the parent has not come forward to claim the child; or

66 (b) The parent has, without good cause, left the child without any  
67 provision for parental support and without making arrangements to visit or  
68 communicate with the child, although able to do so;

69 (2) The child has been abused or neglected. In determining whether to  
70 terminate parental rights pursuant to this subdivision, the court shall consider  
71 and make findings on the following conditions or acts of the parent:

72 (a) A mental condition which is shown by competent evidence either to be  
73 permanent or such that there is no reasonable likelihood that the condition can  
74 be reversed and which renders the parent unable to knowingly provide the child  
75 the necessary care, custody and control;

76 (b) Chemical dependency which prevents the parent from consistently  
77 providing the necessary care, custody and control of the child and which cannot  
78 be treated so as to enable the parent to consistently provide such care, custody  
79 and control;

80 (c) A severe act or recurrent acts of physical, emotional or sexual abuse  
81 toward the child or any child in the family by the parent, including an act of  
82 incest, or by another under circumstances that indicate that the parent knew or  
83 should have known that such acts were being committed toward the child or any  
84 child in the family; or

85 (d) Repeated or continuous failure by the parent, although physically or  
86 financially able, to provide the child with adequate food, clothing, shelter, or  
87 education as defined by law, or other care and control necessary for the child's  
88 physical, mental, or emotional health and development.

89 Nothing in this subdivision shall be construed to permit discrimination on the  
90 basis of disability or disease;

91 (3) The child has been under the jurisdiction of the juvenile court for a  
92 period of one year, and the court finds that the conditions which led to the  
93 assumption of jurisdiction still persist, or conditions of a potentially harmful  
94 nature continue to exist, that there is little likelihood that those conditions will  
95 be remedied at an early date so that the child can be returned to the parent in  
96 the near future, or the continuation of the parent-child relationship greatly  
97 diminishes the child's prospects for early integration into a stable and permanent  
98 home. In determining whether to terminate parental rights under this  
99 subdivision, the court shall consider and make findings on the following:

100 (a) The terms of a social service plan entered into by the parent and the  
101 division and the extent to which the parties have made progress in complying  
102 with those terms;

103 (b) The success or failure of the efforts of the juvenile officer, the division  
104 or other agency to aid the parent on a continuing basis in adjusting his  
105 circumstances or conduct to provide a proper home for the child;

106 (c) A mental condition which is shown by competent evidence either to be  
107 permanent or such that there is no reasonable likelihood that the condition can  
108 be reversed and which renders the parent unable to knowingly provide the child  
109 the necessary care, custody and control;

110 (d) Chemical dependency which prevents the parent from consistently  
111 providing the necessary care, custody and control over the child and which cannot

112 be treated so as to enable the parent to consistently provide such care, custody  
113 and control; or

114 (4) The parent has been found guilty or pled guilty to a felony violation  
115 of chapter 566 when the child or any child in the family was a victim, or a  
116 violation of section 568.020 when the child or any child in the family was a  
117 victim. As used in this subdivision, a "child" means any person who was under  
118 eighteen years of age at the time of the crime and who resided with such parent  
119 or was related within the third degree of consanguinity or affinity to such parent;  
120 or

121 (5) The child was conceived and born as a result of an act of forcible rape  
122 or rape in the first degree. When the biological father has pled guilty to, or is  
123 convicted of, the forcible rape or rape in the first degree of the birth mother, such  
124 a plea or conviction shall be conclusive evidence supporting the termination of the  
125 biological father's parental rights; or

126 (6) [The parent is unfit to be a party to the parent and child relationship  
127 because of a consistent pattern of committing a specific abuse, including but not  
128 limited to abuses as defined in section 455.010, child abuse or drug abuse before  
129 the child or of specific conditions directly relating to the parent and child  
130 relationship either of which are determined by the court to be of a duration or  
131 nature that renders the parent unable, for the reasonably foreseeable future, to  
132 care appropriately for the ongoing physical, mental or emotional needs of the  
133 child. It is presumed that a parent is unfit to be a party to the parent-child  
134 relationship upon a showing that within a three-year period immediately prior  
135 to the termination adjudication, the parent's parental rights to one or more other  
136 children were involuntarily terminated pursuant to subsection 2 or 4 of this  
137 section or subdivisions (1), (2), (3) or (4) of this subsection or similar laws of other  
138 states.] **(a) The parent is unfit to be a party to the parent and child  
139 relationship because of a consistent pattern of committing a specific  
140 abuse, including but not limited to:**

141 **a. Abuses as defined in section 455.010, child abuse or drug abuse  
142 before the child; or**

143 **b. Specific conditions directly relating to the parent and child  
144 relationship either of which are determined by the court to be of a  
145 duration or nature that renders the parent unable, for the reasonably  
146 foreseeable future, to care appropriately for the ongoing physical,  
147 mental, or emotional needs of the child.**

148           **(b) It is presumed that a parent is unfit to be a party to the**  
149 **parent and child relationship upon a showing that:**

150           **a. Within a three-year period immediately prior to the**  
151 **termination adjudication, the parent's parental rights to one or more**  
152 **other children were involuntarily terminated pursuant to subsection 2**  
153 **or 4 of this section or subdivisions (1), (2), (3), or (4) of this subsection**  
154 **or similar laws of other states;**

155           **b. If, while a child is in utero or within eight hours after a child's**  
156 **birth, the child's birth mother has tested positive for alcohol, cocaine,**  
157 **heroin, or methamphetamine, and the mother of the child at issue is the**  
158 **biological mother of at least one other child who was adjudicated an**  
159 **abused or neglected minor or has previously failed to complete**  
160 **treatment services by the children's division through a family centered**  
161 **services case;**

162           **c. If, at the time of the child's birth or within eight hours after**  
163 **a child's birth, the child tested positive for alcohol, cocaine, heroin, or**  
164 **methamphetamine, and the mother of the child at issue is the biological**  
165 **mother of at least one other child who was adjudicated an abused or**  
166 **neglected minor or has previously failed to complete treatment services**  
167 **by the children's division through a family centered services case; or**

168           **d. If, within a three-year period immediately prior to**  
169 **termination adjudication, the parent has pled guilty to or has been**  
170 **convicted of a felony involving the possession, distribution, or**  
171 **manufacture of cocaine, heroin, or methamphetamine and the parent**  
172 **is the biological parent of at least one other child who was adjudicated**  
173 **an abused or neglected minor or has previously failed to complete**  
174 **treatment services by the children's division through a family centered**  
175 **services case.**

176           6. The juvenile court may terminate the rights of a parent to a child upon  
177 a petition filed by the juvenile officer or the division, or in adoption cases, by a  
178 prospective parent, if the court finds that the termination is in the best interest  
179 of the child and when it appears by clear, cogent and convincing evidence that  
180 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

181           7. When considering whether to terminate the parent-child relationship  
182 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of  
183 subsection 5 of this section, the court shall evaluate and make findings on the  
184 following factors, when appropriate and applicable to the case:

- 185 (1) The emotional ties to the birth parent;
- 186 (2) The extent to which the parent has maintained regular visitation or  
187 other contact with the child;
- 188 (3) The extent of payment by the parent for the cost of care and  
189 maintenance of the child when financially able to do so including the time that  
190 the child is in the custody of the division or other child-placing agency;
- 191 (4) Whether additional services would be likely to bring about lasting  
192 parental adjustment enabling a return of the child to the parent within an  
193 ascertainable period of time;
- 194 (5) The parent's disinterest in or lack of commitment to the child;
- 195 (6) The conviction of the parent of a felony offense that the court finds is  
196 of such a nature that the child will be deprived of a stable home for a period of  
197 years; provided, however, that incarceration in and of itself shall not be grounds  
198 for termination of parental rights;
- 199 (7) Deliberate acts of the parent or acts of another of which the parent  
200 knew or should have known that subjects the child to a substantial risk of  
201 physical or mental harm.
- 202 8. The court may attach little or no weight to infrequent visitations,  
203 communications, or contributions. It is irrelevant in a termination proceeding  
204 that the maintenance of the parent-child relationship may serve as an  
205 inducement for the parent's rehabilitation.
- 206 9. In actions for adoption pursuant to chapter 453, the court may hear and  
207 determine the issues raised in a petition for adoption containing a prayer for  
208 termination of parental rights filed with the same effect as a petition permitted  
209 pursuant to subsection 2, 4, or 5 of this section.
- 210 10. The disability or disease of a parent shall not constitute a basis for a  
211 determination that a child is a child in need of care, for the removal of custody  
212 of a child from the parent, or for the termination of parental rights without a  
213 specific showing that there is a causal relation between the disability or disease  
214 and harm to the child.

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