

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 734
98TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 5, 2015, with recommendation that the Senate Committee Substitute do pass.

1211S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 135.341, 210.001, 455.230, 492.304, 566.210, 566.211, 566.212, and 566.213, RSMo, and to enact in lieu thereof ten new sections relating to child protection, with penalty provisions.

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

Section A. Sections 135.341, 210.001, 455.230, 492.304, 566.210, 566.211, 566.212, and 566.213, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 37.719, 135.341, 210.001, 210.148, 455.230, 492.304, 566.210, 566.211, 566.212, and 566.213, to read as follows:

37.719. 1. The office shall have the authority to and may conduct an independent performance review of any entity within a county that has experienced three or more review requests in a calendar year including, but not limited to, the children's division, or the juvenile office, or guardian ad litem. The office shall establish and implement procedures for reviewing any such entity.

2. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary in order to conduct such reviews. No information or records which are protected by attorney-client privilege shall be disclosed by the entity or the office.

3. The office may make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the

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

15 **entity. Upon completing a review under the provisions of this section,**
16 **the office shall submit any findings and recommendations to the**
17 **children's division and the office of state courts administrator.**

135.341. 1. As used in this section, the following terms shall mean:

2 (1) "CASA", an entity which receives funding from the court-appointed
3 special advocate fund established under section 476.777, including an association
4 based in this state, affiliated with a national association, organized to provide
5 support to entities receiving funding from the court-appointed special advocate
6 fund;

7 (2) "Child advocacy centers", the regional child [assessment] **advocacy**
8 centers listed in subsection 2 of section 210.001;

9 (3) "Contribution", the amount of donation to a qualified agency;

10 (4) "Crisis care center", entities contracted with this state which provide
11 temporary care for children whose age ranges from birth through seventeen years
12 of age whose parents or guardian are experiencing an unexpected and unstable
13 or serious condition that requires immediate action resulting in short-term care,
14 usually three to five continuous, uninterrupted days, for children who may be at
15 risk for child abuse, neglect, or in an emergency situation;

16 (5) "Department", the department of revenue;

17 (6) "Director", the director of the department of revenue;

18 (7) "Qualified agency", CASA, child advocacy centers, or a crisis care
19 center;

20 (8) "Tax liability", the tax due under chapter 143 other than taxes
21 withheld under sections 143.191 to 143.265.

22 2. For all tax years beginning on or after January 1, 2013, a tax credit
23 may be claimed in an amount equal to up to fifty percent of a verified
24 contribution to a qualified agency and shall be named the champion for children
25 tax credit. The minimum amount of any tax credit issued shall not be less than
26 fifty dollars and shall be applied to taxes due under chapter 143, excluding
27 sections 143.191 to 143.265. A contribution verification shall be issued to the
28 taxpayer by the agency receiving the contribution. Such contribution verification
29 shall include the taxpayer's name, Social Security number, amount of tax credit,
30 amount of contribution, the name and address of the agency receiving the credit,
31 and the date the contribution was made. The tax credit provided under this
32 subsection shall be initially filed for the year in which the verified contribution
33 is made.

34 3. The cumulative amount of the tax credits redeemed shall not exceed
35 one million dollars in any tax year. The amount available shall be equally
36 divided among the three qualified agencies: CASA, child advocacy centers, or
37 crisis care centers, to be used towards tax credits issued. In the event tax credits
38 claimed under one agency do not total the allocated amount for that agency, the
39 unused portion for that agency will be made available to the remaining agencies
40 equally. In the event the total amount of tax credits claimed for any one agency
41 exceeds the amount available for that agency, the amount redeemed shall and
42 will be apportioned equally to all eligible taxpayers claiming the credit under that
43 agency.

44 4. Prior to December thirty-first of each year, each qualified agency shall
45 apply to the department of social services in order to verify their qualified agency
46 status. Upon a determination that the agency is eligible to be a qualified agency,
47 the department of social services shall provide a letter of eligibility to such
48 agency. No later than February first of each year, the department of social
49 services shall provide a list of qualified agencies to the department of revenue. All
50 tax credit applications to claim the champion for children tax credit shall be filed
51 between July first and April fifteenth of each fiscal year. A taxpayer shall apply
52 for the champion for children tax credit by attaching a copy of the contribution
53 verification provided by a qualified agency to such taxpayer's income tax return.

54 5. Any amount of tax credit which exceeds the tax due or which is applied
55 for and otherwise eligible for issuance but not issued shall not be refunded but
56 may be carried over to any subsequent taxable year, not to exceed a total of five
57 years.

58 6. Tax credits may be assigned, transferred or sold.

59 7. (1) In the event a credit denial, due to lack of available funds, causes
60 a balance-due notice to be generated by the department of revenue, or any other
61 redeeming agency, the taxpayer will not be held liable for any penalty or interest,
62 provided the balance is paid, or approved payment arrangements have been
63 made, within sixty days from the notice of denial.

64 (2) In the event the balance is not paid within sixty days from the notice
65 of denial, the remaining balance shall be due and payable under the provisions
66 of chapter 143.

67 8. The department may promulgate such rules or regulations as are
68 necessary to administer the provisions of this section. Any rule or portion of a
69 rule, as that term is defined in section 536.010, that is created under the

70 authority delegated in this section shall become effective only if it complies with
71 and is subject to all of the provisions of chapter 536 and, if applicable, section
72 536.028. This section and chapter 536 are nonseverable and if any of the powers
73 vested with the general assembly pursuant to chapter 536 to review, to delay the
74 effective date, or to disapprove and annul a rule are subsequently held
75 unconstitutional, then the grant of rulemaking authority and any rule proposed
76 or adopted after August 28, 2013, shall be invalid and void.

77 9. Pursuant to section 23.253, of the Missouri sunset act:

78 (1) The program authorized under this section shall be reauthorized as of
79 March 29, 2013, and shall expire on December 31, 2019, unless reauthorized by
80 the general assembly; and

81 (2) This section shall terminate on September first of the calendar year
82 immediately following the calendar year in which the program authorized under
83 this section is sunset; and

84 (3) The provisions of this subsection shall not be construed to limit or in
85 any way impair the department's ability to redeem tax credits authorized on or
86 before the date the program authorized under this section expires or a taxpayer's
87 ability to redeem such credits.

88 10. Beginning on March 29, 2013, any verified contribution to a qualified
89 agency made on or after January 1, 2013, shall be eligible for tax credits as
90 provided by this section.

210.001. 1. The department of social services shall address the needs of
2 homeless, dependent and neglected children in the supervision and custody of the
3 children's division and to their families-in-conflict by:

4 (1) Serving children and families as a unit in the least restrictive setting
5 available and in close proximity to the family home, consistent with the best
6 interests and special needs of the child;

7 (2) Insuring that appropriate social services are provided to the family
8 unit both prior to the removal of the child from the home and after family
9 reunification;

10 (3) Developing and implementing preventive and early intervention social
11 services which have demonstrated the ability to delay or reduce the need for
12 out-of-home placements and ameliorate problems before they become chronic.

13 2. The department of social services shall fund only regional child
14 [assessment] **advocacy** centers known as:

15 (1) The St. Louis City child [assessment] **advocacy** center;

16 (2) The St. Louis County child [assessment] **advocacy** center;
17 (3) The Jackson County child [assessment] **advocacy** center;
18 (4) The Buchanan County child [assessment] **advocacy** center;
19 (5) The Greene County child [assessment] **advocacy** center;
20 (6) The Boone County child [assessment] **advocacy** center;
21 (7) The Joplin child [assessment] **advocacy** center;
22 (8) The St. Charles County child [assessment] **advocacy** center;
23 (9) The Jefferson County child [assessment] **advocacy** center;
24 (10) The Pettis County child [assessment] **advocacy** center;
25 (11) The southeast Missouri child [assessment] **advocacy** center;
26 (12) The Camden County child [assessment] **advocacy** center;
27 (13) The Clay-Platte County child [assessment] **advocacy** center;
28 (14) The Lakes Area child [assessment] **advocacy** center;
29 (15) The Ozark Foothills child [assessment] **advocacy** center; and
30 (16) The North Central Missouri child [assessment] **advocacy** center;
31 provided the other approved [assessment] **advocacy** centers included in
32 subdivisions (1) to (14) of this subsection submit to the department of social
33 services a modified funding formula for all approved child [assessment]
34 **advocacy** centers, which would require no additional state funding.

210.148. 1. Notwithstanding any provision of section 210.145 to
2 the contrary, upon the receipt of a report under section 210.145 where
3 the subject of the report is a juvenile with problem sexual behavior, the
4 division shall immediately communicate such report to the appropriate
5 local office along with any relevant information as may be contained in
6 the information system. Upon receipt of the report and relevant
7 information, the local office shall use a family assessment and services
8 approach, as described in subsection 14 of section 210.145 to respond
9 to the allegation contained in the report. For the purposes of family
10 assessments performed under this section, the alleged abuse does not
11 have to be committed by a person responsible for the care, custody, and
12 control of the child.

13 2. Nothing in this section shall prohibit the local office from
14 commencing an investigation if the local office, at any point in using
15 the family assessment and services approach, determines that an
16 investigation is required. Such investigation shall comply with the
17 provisions of section 210.145 and may include requesting assistance

18 from the appropriate law enforcement agency.

19 3. As used in this section, the term "juvenile with problem sexual
20 behavior" shall mean any person, under fourteen years of age, who has
21 allegedly committed sexual abuse against another child.

22 4. Within one hundred eighty days after August 28, 2015, the
23 division shall promulgate rules to implement the provisions of this
24 section. Any rule or portion of a rule, as that term is defined in section
25 536.010 that is created under the authority delegated in this section
26 shall become effective only if it complies with and is subject to all of
27 the provisions of chapter 536, and, if applicable, section 536.028. This
28 section and chapter 536 are nonseverable and if any of the powers
29 vested with the general assembly pursuant to chapter 536, to review, to
30 delay the effective date, or to disapprove and annul a rule are
31 subsequently held unconstitutional, then the grant of rulemaking
32 authority and any rule proposed or adopted after August 28, 2015, shall
33 be invalid and void.

455.230. 1. A shelter for victims of domestic violence that receives funds
2 pursuant to sections 455.200 to 455.230 shall file an annual report with the
3 designated authority of the county, or of the city not within a county, in which it
4 is located, on or before the thirty-first day of March of the year following the year
5 in which funds were received. The annual report shall include statistics on the
6 number of persons served by the shelter, the relationship of the victim of
7 domestic violence to the abuser, the number of referrals made for medical,
8 psychological, financial, educational, vocational, child care services or legal
9 services, and shall include the results of an independent audit. No information
10 contained in the report shall identify any person served by the shelter or enable
11 any person to determine the identity of any such person. Any information
12 contained in the report that is directly related to advocacy services provided by
13 the shelter shall not be construed as a violation of section 455.220. Any shelter
14 for victims of domestic violence as defined in this chapter may apply to the
15 department of public safety for a grant to provide funds for the renovation,
16 construction and improvement of such shelter on a 75/25 state/local match rate,
17 subject to appropriation.

18 2. The designated authority shall compile the reports filed pursuant to
19 subsection 1 of this section annually.

20 3. In addition to any shelter funded under said section, subject to

21 appropriation, the department of social services shall fund a child [assessment]
22 **advocacy** center to serve the needs of children from families in conflict and from
23 domestic violence to be located in any county of the first classification without a
24 charter form of government with a population of more than one hundred sixty
25 thousand but less than two hundred thousand.

492.304. 1. In addition to the admissibility of a statement under the
2 provisions of section 492.303, the visual and aural recording of a verbal or
3 nonverbal statement of a child when under the age of fourteen who is alleged to
4 be a victim of an offense under the provisions of chapter 565, 566 or 568 is
5 admissible into evidence if:

6 (1) No attorney for either party was present when the statement was
7 made; except that, for any statement taken at a state-funded child [assessment]
8 **advocacy** center as provided for in subsection 2 of section 210.001, an attorney
9 representing the state of Missouri in a criminal investigation may, as a member
10 of a multidisciplinary investigation team, observe the taking of such statement,
11 but such attorney shall not be present in the room where the interview is being
12 conducted;

13 (2) The recording is both visual and aural and is recorded on film or
14 videotape or by other electronic means;

15 (3) The recording equipment was capable of making an accurate recording,
16 the operator of the equipment was competent, and the recording is accurate and
17 has not been altered;

18 (4) The statement was not made in response to questioning calculated to
19 lead the child to make a particular statement or to act in a particular way;

20 (5) Every voice on the recording is identified;

21 (6) The person conducting the interview of the child in the recording is
22 present at the proceeding and available to testify or be cross-examined by either
23 party; and

24 (7) The defendant or the attorney for the defendant is afforded an
25 opportunity to view the recording before it is offered into evidence.

26 2. If the child does not testify at the proceeding, the visual and aural
27 recording of a verbal or nonverbal statement of the child shall not be admissible
28 under this section unless the recording qualifies for admission under section
29 491.075.

30 3. If the visual and aural recording of a verbal or nonverbal statement of
31 a child is admissible under this section and the child testifies at the proceeding,

32 it shall be admissible in addition to the testimony of the child at the proceeding
33 whether or not it repeats or duplicates the child's testimony.

34 4. As used in this section, a nonverbal statement shall be defined as any
35 demonstration of the child by his or her actions, facial expressions,
36 demonstrations with a doll or other visual aid whether or not this demonstration
37 is accompanied by words.

566.210. 1. A person commits the offense of sexual trafficking of a child
2 in the first degree if he or she knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means, including but not limited to through the use of force, abduction, coercion,
5 fraud, deception, blackmail, or causing or threatening to cause financial harm, a
6 person under the age of twelve to participate in a commercial sex act, a sexual
7 performance, or the production of explicit sexual material as defined in section
8 573.010, or benefits, financially or by receiving anything of value, from
9 participation in such activities; [or]

10 (2) Causes a person under the age of twelve to engage in a commercial sex
11 act, a sexual performance, or the production of explicit sexual material as defined
12 in section 573.010; or

13 **(3) Advertises the availability of a person under the age of**
14 **twelve to participate in a commercial sex act, a sexual performance, or**
15 **the production of explicit sexual material as defined in section 573.010.**

16 2. It shall not be a defense that the defendant believed that the person
17 was twelve years of age or older.

18 3. The offense of sexual trafficking of a child in the first degree is a felony
19 for which the authorized term of imprisonment is life imprisonment without
20 eligibility for probation or parole until the offender has served not less than
21 twenty-five years of such sentence. Subsection 4 of section 558.019 shall not
22 apply to the sentence of a person who has been found guilty of sexual trafficking
23 of a child less than twelve years of age, and "life imprisonment" shall mean
24 imprisonment for the duration of a person's natural life for the purposes of this
25 section.

566.211. 1. A person commits the offense of sexual trafficking of a child
2 in the second degree if he or she knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means, including but not limited to through the use of force, abduction, coercion,
5 fraud, deception, blackmail, or causing or threatening to cause financial harm, a

6 person under the age of eighteen to participate in a commercial sex act, a sexual
7 performance, or the production of explicit sexual material as defined in section
8 573.010, or benefits, financially or by receiving anything of value, from
9 participation in such activities; [or]

10 (2) Causes a person under the age of eighteen to engage in a commercial
11 sex act, a sexual performance, or the production of explicit sexual material as
12 defined in section 573.010; or

13 **(3) Advertises the availability of a person under the age of**
14 **eighteen to participate in a commercial sex act, a sexual performance,**
15 **or the production of explicit sexual material as defined in section**
16 **573.010.**

17 2. It shall not be a defense that the defendant believed that the person
18 was eighteen years of age or older.

19 3. The offense sexual trafficking of a child in the second degree is a felony
20 punishable by imprisonment for a term of years not less than ten years or life and
21 a fine not to exceed two hundred fifty thousand dollars if the child is under the
22 age of eighteen. If a violation of this section was effected by force, abduction, or
23 coercion, the crime of sexual trafficking of a child shall be a felony for which the
24 authorized term of imprisonment is life imprisonment without eligibility for
25 probation or parole until the defendant has served not less than twenty-five years
26 of such sentence.

566.212. 1. A person commits the crime of sexual trafficking of a child if
2 the individual knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means, including but not limited to through the use of force, abduction, coercion,
5 fraud, deception, blackmail, or causing or threatening to cause financial harm, a
6 person under the age of eighteen to participate in a commercial sex act, a sexual
7 performance, or the production of explicit sexual material as defined in section
8 573.010, or benefits, financially or by receiving anything of value, from
9 participation in such activities; [or]

10 (2) Causes a person under the age of eighteen to engage in a commercial
11 sex act, a sexual performance, or the production of explicit sexual material as
12 defined in section 573.010; or

13 **(3) Advertises the availability of a person under the age of**
14 **eighteen to participate in a commercial sex act, a sexual performance,**
15 **or the production of explicit sexual material as defined in section**

16 **573.010.**

17 2. It shall not be a defense that the defendant believed that the person
18 was eighteen years of age or older.

19 3. Sexual trafficking of a child is a felony punishable by imprisonment for
20 a term of years not less than ten years or life and a fine not to exceed two
21 hundred fifty thousand dollars if the child is under the age of eighteen. If a
22 violation of this section was effected by force, abduction, or coercion, the crime of
23 sexual trafficking of a child shall be a felony for which the authorized term of
24 imprisonment is life imprisonment without eligibility for probation or parole until
25 the defendant has served not less than twenty-five years of such sentence.

 566.213. 1. A person commits the crime of sexual trafficking of a child
2 under the age of twelve if the individual knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means, including but not limited to through the use of force, abduction, coercion,
5 fraud, deception, blackmail, or causing or threatening to cause financial harm, a
6 person under the age of twelve to participate in a commercial sex act, a sexual
7 performance, or the production of explicit sexual material as defined in section
8 573.010, or benefits, financially or by receiving anything of value, from
9 participation in such activities; [or]

10 (2) Causes a person under the age of twelve to engage in a commercial sex
11 act, a sexual performance, or the production of explicit sexual material as defined
12 in section 573.010; or

13 **(3) Advertises the availability of a person under the age of**
14 **twelve to participate in a commercial sex act, a sexual performance, or**
15 **the production of explicit sexual material as defined in section 573.010.**

16 2. It shall not be a defense that the defendant believed that the person
17 was twelve years of age or older.

18 3. Sexual trafficking of a child less than twelve years of age shall be a
19 felony for which the authorized term of imprisonment is life imprisonment
20 without eligibility for probation or parole until the defendant has served not less
21 than twenty-five years of such sentence. Subsection 4 of section 558.019 shall not
22 apply to the sentence of a person who has pleaded guilty to or been found guilty
23 of sexual trafficking of a child less than twelve years of age, and "life
24 imprisonment" shall mean imprisonment for the duration of a person's natural
25 life for the purposes of this section.

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