

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1877

AN ACT

To repeal sections 210.110, 211.031, and 211.036, RSMo, and to enact in lieu thereof nine new sections relating to the children's division.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 210.110, 211.031, and 211.036, RSMo,
2 are repealed and nine new sections enacted in lieu thereof, to be
3 known as sections 210.110, 210.118, 210.660, 210.665, 210.670,
4 210.675, 210.680, 211.031, and 211.036, to read as follows:

5 210.110. As used in sections 210.109 to 210.165, and
6 sections 210.180 to 210.183, the following terms mean:

7 (1) "Abuse", any physical injury, sexual abuse, or
8 emotional abuse inflicted on a child other than by accidental
9 means by those responsible for the child's care, custody, and
10 control, except that discipline including spanking, administered
11 in a reasonable manner, shall not be construed to be abuse;

12 (2) "Assessment and treatment services for children under
13 ten years old", an approach to be developed by the children's
14 division which will recognize and treat the specific needs of
15 at-risk and abused or neglected children under the age of ten.
16 The developmental and medical assessment may be a broad physical,
17 developmental, and mental health screening to be completed within

1 thirty days of a child's entry into custody and every six months
2 thereafter as long as the child remains in care. Screenings may
3 be offered at a centralized location and include, at a minimum,
4 the following:

5 (a) Complete physical to be performed by a pediatrician
6 familiar with the effects of abuse and neglect on young children;

7 (b) Developmental, behavioral, and emotional screening in
8 addition to early periodic screening, diagnosis, and treatment
9 services, including a core set of standardized and recognized
10 instruments as well as interviews with the child and appropriate
11 caregivers. The screening battery may be performed by a licensed
12 mental health professional familiar with the effects of abuse and
13 neglect on young children, who will then serve as the liaison
14 between all service providers in ensuring that needed services
15 are provided. Such treatment services may include in-home
16 services, out-of-home placement, intensive twenty-four-hour
17 treatment services, family counseling, parenting training and
18 other best practices. Children whose screenings indicate an area
19 of concern may complete a comprehensive, in-depth health,
20 psychodiagnostic, or developmental assessment within sixty days
21 of entry into custody;

22 (3) "Central registry", a registry of persons where the
23 division has found probable cause to believe prior to August 28,
24 2004, or by a preponderance of the evidence after August 28,
25 2004, or a court has substantiated through court adjudication
26 that the individual has committed child abuse or neglect or the
27 person has pled guilty or has been found guilty of a crime
28 pursuant to section 565.020, 565.021, 565.023, 565.024 [or],

1 565.050, 566.030, 566.060, or 567.050 if the victim is a child
2 less than eighteen years of age[, section 566.030 or 566.060 if
3 the victim is a child less than eighteen years of age], or any
4 other crime pursuant to chapter 566 if the victim is a child less
5 than eighteen years of age and the perpetrator is twenty-one
6 years of age or older, [section 567.050 if the victim is a child
7 less than eighteen years of age,] a crime under section 568.020,
8 568.030, 568.045, 568.050, 568.060, 568.080, [or] 568.090,
9 [section] 573.023, 573.025 [or], 573.035, 573.037, 573.040,
10 573.200, or 573.205, or an attempt to commit any such crimes.

11 Any persons placed on the registry prior to August 28, 2004,
12 shall remain on the registry for the duration of time required by
13 section 210.152;

14 (4) "Child", any person, regardless of physical or mental
15 condition, under eighteen years of age;

16 (5) "Children's services providers and agencies", any
17 public, quasi-public, or private entity with the appropriate and
18 relevant training and expertise in delivering services to
19 children and their families as determined by the children's
20 division, and capable of providing direct services and other
21 family services for children in the custody of the children's
22 division or any such entities or agencies that are receiving
23 state moneys for such services;

24 (6) "Director", the director of the Missouri children's
25 division within the department of social services;

26 (7) "Division", the Missouri children's division within the
27 department of social services;

28 (8) "Family assessment and services", an approach to be

1 developed by the children's division which will provide for a
2 prompt assessment of a child who has been reported to the
3 division as a victim of abuse or neglect by a person responsible
4 for that child's care, custody or control and of that child's
5 family, including risk of abuse and neglect and, if necessary,
6 the provision of community-based services to reduce the risk and
7 support the family;

8 (9) "Family support team meeting" or "team meeting", a
9 meeting convened by the division or children's services provider
10 in behalf of the family and/or child for the purpose of
11 determining service and treatment needs, determining the need for
12 placement and developing a plan for reunification or other
13 permanency options, determining the appropriate placement of the
14 child, evaluating case progress, and establishing and revising
15 the case plan;

16 (10) "Investigation", the collection of physical and verbal
17 evidence to determine if a child has been abused or neglected;

18 (11) "Jail or detention center personnel", employees and
19 volunteers working in any premises or institution where
20 incarceration, evaluation, care, treatment or rehabilitation is
21 provided to persons who are being held under custody of the law;

22 (12) "Neglect", failure to provide, by those responsible
23 for the care, custody, and control of the child, the proper or
24 necessary support, education as required by law, nutrition or
25 medical, surgical, or any other care necessary for the child's
26 well-being;

27 (13) "Preponderance of the evidence", that degree of
28 evidence that is of greater weight or more convincing than the

1 evidence which is offered in opposition to it or evidence which
2 as a whole shows the fact to be proved to be more probable than
3 not;

4 (14) "Probable cause", available facts when viewed in the
5 light of surrounding circumstances which would cause a reasonable
6 person to believe a child was abused or neglected;

7 (15) "Report", the communication of an allegation of child
8 abuse or neglect to the division pursuant to section 210.115;

9 (16) "Those responsible for the care, custody, and control
10 of the child", those included but not limited to the parents or
11 guardian of a child, other members of the child's household, or
12 those exercising supervision over a child for any part of a
13 twenty-four-hour day. Those responsible for the care, custody
14 and control shall also include any adult who, based on
15 relationship to the parents of the child, members of the child's
16 household or the family, has access to the child.

17 210.118. 1. Except for actions under the uniform parentage
18 act, sections 210.817 to 210.852, in any action under chapter 210
19 or 211 in which the court finds by a preponderance of the
20 evidence that a party is responsible for child abuse or neglect,
21 as those terms are defined in section 210.110, the clerk shall
22 send a certified copy of the judgment or order to the children's
23 division and to the appropriate prosecuting attorney. Upon
24 receipt of the order, the children's division shall list the
25 individual as a perpetrator of child abuse or neglect in the
26 central registry.

27 2. In every case in which the person has pled guilty to or
28 been found guilty of:

1 (1) A crime under section 565.020, 565.021, 565.023,
2 565.024, 565.050, 566.030, 566.060, or 567.050 and the victim is
3 a child under eighteen years of age;

4 (2) Any other crime in chapter 566 if the victim is a child
5 under eighteen years of age and the perpetrator is twenty-one
6 years of age or older;

7 (3) A crime under section 568.020, 568.030, 568.045,
8 568.050, 568.060, 568.080, 568.090, 573.023, 573.025, 573.035,
9 573.037, 573.040, 573.200, or 573.205; or

10 (4) An attempt to commit any such crimes;

11

12 the court shall enter an order directing the children's division
13 to list the individual as a perpetrator of child abuse or neglect
14 in the central registry. The clerk shall send a certified copy
15 of the order to the children's division. Upon receipt of the
16 order, the children's division shall list the individual as a
17 perpetrator of child abuse or neglect in the central registry.

18 210.660. As used in sections 210.660 to 210.680, the
19 following terms shall mean:

20 (1) "Age- or developmentally-appropriate activities":

21 (a) Activities or items that are generally accepted as
22 suitable for children of the same chronological age or level of
23 maturity or that are determined to be developmentally-appropriate
24 for a child, based on the development of cognitive, emotional,
25 physical, and behavioral capacities that are typical for an age
26 or age group; and

27 (b) In the case of a specific child, activities, or items
28 that are suitable for the child based on the developmental stages

1 attained by the child with respect to the cognitive, emotional,
2 physical, and behavioral capacities of the child;

3 (2) "Caregiver", a foster parent, relative, or kinship
4 provider with whom a child in foster care has been placed or a
5 designated official for a child care institution in which a child
6 in foster care has been placed;

7 (3) "Division", the Missouri children's division within the
8 department of social services;

9 (4) "Reasonable and prudent parent standard", the standard
10 characterized by careful and sensible parental decisions that
11 maintain the health, safety, and best interests of a child while
12 at the same time encouraging the emotional and developmental
13 growth of the child, that a caregiver shall use when determining
14 whether to allow a child in foster care under the responsibility
15 of the state to participate in extracurricular, enrichment,
16 cultural, and social activities.

17 210.665. 1. Except as otherwise provided in subsection 8
18 of this section, the court and all parties to a case under
19 chapter 211 involving a child in care shall defer to the
20 reasonable decisions of the child's designated caregiver
21 involving the child's participation in extracurricular,
22 enrichment, cultural, and social activities.

23 2. A caregiver shall use the reasonable and prudent parent
24 standard when making decisions relating to the activity of the
25 child.

26 3. The division or a contracted agency thereof shall
27 designate at least one onsite caregiver who has authority to
28 apply the reasonable and prudent parent standard for each child

1 placed in its custody.

2 4. The caregiver shall consider:

3 (1) The child's age, maturity, and developmental level;

4 (2) The overall health and safety of the child;

5 (3) Potential risk factors and appropriateness of the

6 activity;

7 (4) The best interests of the child;

8 (5) Promoting, where safe and as appropriate, normal

9 childhood experiences; and

10 (6) Any other relevant factors based on the caregiver's

11 knowledge of the child.

12 5. Caregivers shall receive training with regard to the

13 reasonable and prudent parent standard as required by the

14 division. The training shall include:

15 (1) Knowledge and skills relating to the developmental
16 stages of the cognitive, emotional, physical, and behavioral
17 capacities of a child;

18 (2) Knowledge and skills relating to applying the standard
19 to decisions, including but not limited to whether to allow the
20 child to engage in social, extracurricular, enrichment, cultural,
21 and social activities, such as sports, field trips, and overnight
22 activities lasting one or more days; and

23 (3) Knowledge and skills relating to decisions, including
24 but not limited to the signing of permission slips and arranging
25 of transportation for the child to and from extracurricular,
26 enrichment, and social activities.

27 6. A caregiver shall not be liable for harm caused to a
28 child while participating in an activity chosen by the caregiver,

1 provided the caregiver acted in accordance with the reasonable
2 and prudent parent standard.

3 7. No court shall order the division or a contracted agency
4 thereof to provide funding for activities chosen by the
5 caregiver.

6 8. A caregiver's decisions with regard to the child may be
7 overturned by the court only if, upon notice and a hearing, the
8 court finds by clear and convincing evidence the reasonable and
9 prudent parent standard has been violated. The caregiver shall
10 have the right to receive notice, to attend the hearing, and to
11 present evidence at the hearing.

12 210.670. 1. Children in foster care under the
13 responsibility of the state who have attained the age of fourteen
14 shall be consulted in the development of, revision of, or
15 addition to their case plan.

16 2. The children may choose individuals to participate as
17 members of the family support team. The division may reject
18 members chosen by the child if the division has good cause to
19 believe the individual would not act in the best interests of the
20 child. The child may designate one member to be his or her
21 advisor and, as necessary, advocate, with respect to the
22 application of the reasonable and prudent parent standard to the
23 child.

24 3. The child shall receive:

25 (1) A document which describes the rights of the child with
26 respect to education, health, visitation, court participation,
27 the child's right to documents pursuant to subsection 4 of this
28 section, and the child's right to stay safe and avoid

1 exploitation; and

2 (2) A signed acknowledgment by the child indicating he or
3 she has been provided with a copy of the document, and the
4 child's rights contained in the document have been explained to
5 the child in an age- and developmentally-appropriate manner.

6 4. If a child is leaving foster care by reason of having
7 attained eighteen years of age or such greater age as the state
8 has elected, the division shall provide the child with an
9 official or certified copy of his or her United States birth
10 certificate, a social security card issued by the Commissioner of
11 Social Security, health insurance information, a copy of the
12 child's medical records, and a driver's license or identification
13 card issued by the state, unless the child has been in foster
14 care for less than six months and unless the child is ineligible
15 to receive such documents.

16 210.675. 1. No child in foster care under the
17 responsibility of the state under the age of sixteen shall have a
18 permanency plan of another planned permanent living arrangement.

19 2. For children with a permanency plan of another planned
20 permanent living arrangement, the court shall make the following
21 findings of fact and conclusions of law at each permanency
22 hearing:

23 (1) The division's intensive, ongoing, and unsuccessful
24 efforts to return the child home or to secure a placement for the
25 child with a fit and willing relative, such as adult siblings, a
26 legal guardian, or an adoptive parent, including efforts to
27 utilize search technology, like social media, to find biological
28 family members of the child;

(2) The child's desired permanency outcome;

(3) A judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child, including compelling reasons why it continues not to be in the best interests of the child to:

(a) Return home;

(b) Be placed for adoption;

(c) Be placed with a legal guardian; or

(d) Be placed with a fit and willing relative; and

(4) The division's efforts to ensure:

(a) The child's foster family home child care institution

is following the reasonable and prudent parent standard; and

(b) The child has regular, ongoing opportunities to engage in age- or developmentally-appropriate activities, including consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities.

210.680. The division shall adopt regulations to implement the requirements of sections 210.660 to 210.675. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any

1 rule proposed or adopted after August 28, 2016, shall be invalid
2 and void.

3 211.031. 1. Except as otherwise provided in this chapter,
4 the juvenile court or the family court in circuits that have a
5 family court as provided in sections 487.010 to 487.190 shall
6 have exclusive original jurisdiction in proceedings:

7 (1) Involving any child or person seventeen years of age
8 who may be a resident of or found within the county and who is
9 alleged to be in need of care and treatment because:

10 (a) The parents, or other persons legally responsible for
11 the care and support of the child or person seventeen years of
12 age, neglect or refuse to provide proper support, education which
13 is required by law, medical, surgical or other care necessary for
14 his or her well-being; except that reliance by a parent, guardian
15 or custodian upon remedial treatment other than medical or
16 surgical treatment for a child or person seventeen years of age
17 shall not be construed as neglect when the treatment is
18 recognized or permitted pursuant to the laws of this state;

19 (b) The child or person seventeen years of age is otherwise
20 without proper care, custody or support; [or]

21 (c) The child or person seventeen years of age was living
22 in a room, building or other structure at the time such dwelling
23 was found by a court of competent jurisdiction to be a public
24 nuisance pursuant to section 195.130; or

25 (d) The child or person seventeen years of age is a child
26 in need of mental health services and the parent, guardian or
27 custodian is unable to afford or access appropriate mental health
28 treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; [or]

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; [or]

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; [or]

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen years of age who is

1 alleged to have violated a state or municipal traffic ordinance
2 or regulation, the violation of which does not constitute a
3 felony, and except that the juvenile court shall have concurrent
4 jurisdiction with the municipal court over any child who is
5 alleged to have violated a municipal curfew ordinance, and except
6 that the juvenile court shall have concurrent jurisdiction with
7 the circuit court on any child who is alleged to have violated a
8 state or municipal ordinance or regulation prohibiting possession
9 or use of any tobacco product;

10 (4) For the adoption of a person;

11 (5) For the commitment of a child or person seventeen years
12 of age to the guardianship of the department of social services
13 as provided by law; **[and]**

14 (6) Involving an order of protection pursuant to chapter
15 455 when the respondent is less than seventeen years of age; and

16 (7) Involving any youth for whom a petition to return the
17 youth to children's division custody has been filed under section
18 211.036.

19 2. Transfer of a matter, proceeding, jurisdiction or
20 supervision for a child or person seventeen years of age who
21 resides in a county of this state shall be made as follows:

22 (1) Prior to the filing of a petition and upon request of
23 any party or at the discretion of the juvenile officer, the
24 matter in the interest of a child or person seventeen years of
25 age may be transferred by the juvenile officer, with the prior
26 consent of the juvenile officer of the receiving court, to the
27 county of the child's residence or the residence of the person
28 seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570 with the consent of the receiving court;

(5) Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri supreme court rules;

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years

1 of age, certified copies of all legal and social documents and
2 records pertaining to the case on file with the clerk of the
3 transferring juvenile court shall accompany the transfer.

4 3. In any proceeding involving any child or person
5 seventeen years of age taken into custody in a county other than
6 the county of the child's residence or the residence of a person
7 seventeen years of age, the juvenile court of the county of the
8 child's residence or the residence of a person seventeen years of
9 age shall be notified of such taking into custody within
10 seventy-two hours.

11 4. When an investigation by a juvenile officer pursuant to
12 this section reveals that the only basis for action involves an
13 alleged violation of section 167.031 involving a child who
14 alleges to be home schooled, the juvenile officer shall contact a
15 parent or parents of such child to verify that the child is being
16 home schooled and not in violation of section 167.031 before
17 making a report of such a violation. Any report of a violation
18 of section 167.031 made by a juvenile officer regarding a child
19 who is being home schooled shall be made to the prosecuting
20 attorney of the county where the child legally resides.

21 5. The disability or disease of a parent shall not
22 constitute a basis for a determination that a child is a child in
23 need of care or for the removal of custody of a child from the
24 parent without a specific showing that there is a causal relation
25 between the disability or disease and harm to the child.

26 211.036. 1. If a youth under the age of twenty-one is
27 released from the custody of the children's division and after
28 such release it appears that it would be in such youth's best

1 interest to have his or her custody returned to the children's
2 division, the juvenile officer, the children's division or the
3 youth may petition the court to return custody of such youth to
4 the division until the youth is twenty-one years of age. The
5 petition shall be filed in the court that previously exercised
6 authority over the youth under section 211.031, in the court in
7 the county where the youth resides, or in the court of an
8 adjacent county. In deciding if it is in the best interests of
9 the youth to be returned to the custody of the children's
10 division under this section, the court shall consider the
11 following factors:

12 (1) The circumstances of the youth;

13 (2) Whether the children's division has services or
14 programs in place that will benefit the youth and assist the
15 youth in transitioning to self-sufficiency; and

16 (3) Whether the youth has the commitment to fully cooperate
17 with the children's division in developing and implementing a
18 case plan.

19
20 The court shall not return a youth to the custody of the
21 children's division who has been committed to the custody of
22 another agency; who is under a legal guardianship; or who has
23 pled guilty to or been found guilty of a felony criminal offense.

24 2. The youth shall cooperate with the case plan developed
25 for the youth by the children's division in consultation with the
26 youth.

27 3. For purposes of this section, a "youth" is any person
28 eighteen years of age or older and under twenty-one years of age

1 who was in the custody of the children's division in foster care
2 at any time in the two-year period preceding the youth's
3 eighteenth birthday.

4 4. The court may, upon motion of the children's division or
5 the youth, terminate care and supervision before the youth's
6 twenty-first birthday if the court finds the children's division
7 does not have services available for the youth, the youth no
8 longer needs services, or if the youth declines to cooperate with
9 the case plan.

10 5. The youth, at the youth's discretion, may request to be
11 appointed a guardian ad litem. If a guardian ad litem is
12 appointed, he or she shall serve under section 210.160.

13 6. The court shall hold review hearings as necessary, but
14 in no event less than once every six months for as long as the
15 youth is in the custody of the children's division.