

SECOND REGULAR SESSION

# SENATE BILL NO. 850

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time January 3, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5434S.011

## AN ACT

To repeal section 210.152, RSMo, and to enact in lieu thereof one new section relating to investigations of child abuse and neglect.

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

Section A. Section 210.152, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 210.152, to read as follows:

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] **or** removed from  
4 the records of the division as follows:

5 (1) For investigation reports contained in the central registry,  
6 [identifying] **the report and all** 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

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

20 under section 210.115,] where insufficient evidence of abuse or neglect is found  
21 by the division, identifying information shall be retained for **[five] ten** years from  
22 the 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 (d) For investigation reports where the identification of the specific  
30 perpetrator or perpetrators cannot be substantiated and the division has specific  
31 evidence to determine that a child was abused or neglected, the division shall  
32 retain the report and all **[identifying]** information but shall not place an unknown  
33 perpetrator on the central registry. **[The division shall retain all identifying**  
34 **information for the purpose of utilizing such information in subsequent**  
35 **investigations or family assessments of the same child, the child's family, or**  
36 **members of the child's household.]** The division shall retain and disclose  
37 information and findings in the same manner as the division retains and discloses  
38 family assessments. If the division made a finding of abuse or neglect against an  
39 unknown perpetrator prior to August 28, 2017, the division shall remove the  
40 unknown perpetrator from the central registry but shall retain and utilize all  
41 **[identifying]** information as otherwise provided in this section;

42 (3) For reports where the division uses the family assessment and services  
43 approach, **[identifying]** information shall be retained by the division;

44 (4) For reports in which the division is unable to locate the child alleged  
45 to have been abused or neglected, **[identifying]** information shall be retained for  
46 **[ten] eighteen** years from the date of the report and then shall be removed from  
47 the records **[of] by** the division.

48 2. Within ninety days, or within one hundred twenty days in cases  
49 involving sexual abuse, or until the division's investigation is complete in cases  
50 involving a child fatality or near-fatality, after receipt of a report of abuse or  
51 neglect that is investigated, the alleged perpetrator named in the report and the  
52 parents of the child named in the report, if the alleged perpetrator is not a  
53 parent, shall be notified in writing of any determination made by the division  
54 based on the investigation. The notice shall advise either:

55 (1) That the division has determined by a probable cause finding prior to

56 August 28, 2004, or by a preponderance of the evidence after August 28, 2004,  
57 that abuse or neglect exists and that the division shall retain all [identifying]  
58 information regarding the abuse or neglect; that such information shall remain  
59 confidential and will not be released except to law enforcement agencies,  
60 prosecuting or circuit attorneys, or as provided in section 210.150; that the  
61 alleged perpetrator has sixty days from the date of receipt of the notice to seek  
62 reversal of the division's determination through a review by the child abuse and  
63 neglect review board as provided in subsection 4 of this section;

64 (2) That the division has not made a probable cause finding or determined  
65 by a preponderance of the evidence that abuse or neglect exists; or

66 (3) The division has been unable to determine the identity of the  
67 perpetrator of the abuse or neglect. The notice shall also inform the child's  
68 parents and legal guardian that the division shall retain, utilize, and disclose all  
69 information and findings as provided in family assessment and services cases.

70 3. The children's division may reopen a case for review if new, specific,  
71 and credible evidence is obtained.

72 4. Any person named in an investigation as a perpetrator who is  
73 aggrieved by a determination of abuse or neglect by the division as provided in  
74 this section may seek an administrative review by the child abuse and neglect  
75 review board pursuant to the provisions of section 210.153. Such request for  
76 review shall be made within sixty days of notification of the division's decision  
77 under this section. In those cases where criminal charges arising out of facts of  
78 the investigation are pending, the request for review shall be made within sixty  
79 days from the court's final disposition or dismissal of the charges.

80 5. In any such action for administrative review, the child abuse and  
81 neglect review board shall sustain the division's determination if such  
82 determination was supported by evidence of probable cause prior to August 28,  
83 2004, or is supported by a preponderance of the evidence after August 28, 2004,  
84 and is not against the weight of such evidence. The child abuse and neglect  
85 review board hearing shall be closed to all persons except the parties, their  
86 attorneys and those persons providing testimony on behalf of the parties.

87 6. If the alleged perpetrator is aggrieved by the decision of the child abuse  
88 and neglect review board, the alleged perpetrator may seek de novo judicial  
89 review in the circuit court in the county in which the alleged perpetrator resides  
90 and in circuits with split venue, in the venue in which the alleged perpetrator  
91 resides, or in Cole County. If the alleged perpetrator is not a resident of the

92 state, proper venue shall be in Cole County. The case may be assigned to the  
93 family court division where such a division has been established. The request for  
94 a judicial review shall be made within sixty days of notification of the decision of  
95 the child abuse and neglect review board decision. In reviewing such decisions,  
96 the circuit court shall provide the alleged perpetrator the opportunity to appear  
97 and present testimony. The alleged perpetrator may subpoena any witnesses  
98 except the alleged victim or the reporter. However, the circuit court shall have  
99 the discretion to allow the parties to submit the case upon a stipulated record.

100           7. In any such action for administrative review, the child abuse and  
101 neglect review board shall notify the child or the parent, guardian or legal  
102 representative of the child that a review has been requested.

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Bill

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