

SECOND REGULAR SESSION

SENATE BILL NO. 971

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Read 1st time January 29, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5445S.011

AN ACT

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

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

Section A. Section 211.447, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 211.446 and 211.447, to read as
3 follows:

**211.446. 1. In entering an order of adjudication, disposition, or
2 judgment on a petition under subdivision (1) of subsection 1 of section
3 211.031 or a motion to modify any judgment under subdivision (1) of
4 subsection 1 of section 211.031, the court shall consider, and in every
5 case enter written specific findings of fact and conclusions of law on,
6 whether the child is an abandoned infant as described in section
7 211.447 or whether the child's parent:**

8 **(1) Negligently, recklessly, knowingly, or intentionally engaged
9 in conduct that caused serious bodily injury to the child;**

10 **(2) Sexually abused the child;**

11 **(3) Sexually abused another child;**

12 **(4) Committed murder of another child of the parent;**

13 **(5) Committed voluntary manslaughter of another child of the
14 parent;**

15 **(6) Aided or abetted, attempted, conspired, or solicited to commit
16 murder or voluntary manslaughter of another child of the parent;**

17 **(7) Engaged in conduct that resulted in serious bodily injury or
18 the death of another child of the parent; or**

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

19 **(8) Committed a felony assault that resulted in serious bodily**
20 **injury to the child or to another child of the parent.**

21 **2. The findings of fact shall be made by clear, cogent, and**
22 **convincing evidence. A certified copy of any final order and judgment**
23 **containing the findings in subsection 1 of this section shall be admitted**
24 **into evidence in any petition for termination of parental rights under**
25 **section 211.444 or 211.447 or in any petition for adoption under chapter**
26 **453. Any final judgment required by this section shall conclusively**
27 **establish the findings of fact and conclusions of law contained therein**
28 **for purposes of any subsequent proceeding for the termination of**
29 **parental rights of the parent of the child.**

30 **3. For the purposes of this section, the following terms mean:**

31 **(1) "Serious bodily injury", physical injury to a child that**
32 **involves substantial risk of death, extreme physical pain, protracted**
33 **and obvious disfigurement, or protracted loss or impairment of the**
34 **function of a bodily member, organ, or mental faculty. "Serious bodily**
35 **injury" shall also include injuries that a licensed physician has**
36 **determined to be serious, critical, or life threatening;**

37 **(2) "Sexual abuse", child molestation under sections 566.067 to**
38 **566.069 or sexual abuse under sections 566.100 and 566.101.**

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 appears
4 that the information could justify the filing of a petition, the juvenile officer may
5 take further action, including filing a petition. If it does not appear to the
6 juvenile officer that a petition should be filed, such officer shall so notify the
7 informant in writing within thirty days of the referral. Such notification shall
8 include the reasons that the petition will not be filed.

9 2. Except as provided for in subsection 4 of this section, a **juvenile**
10 **officer or the children's division, if the child is in the custody of or**
11 **under supervision of the division, shall file a petition to terminate the**
12 **parental rights of the child's parent or parents [shall be filed by the juvenile**
13 **officer or the division,] or, if such a petition has been filed by another party and**
14 **the child is under the custody or supervision of the division, the juvenile**
15 **officer or the division shall seek to be joined as a party to the petition, when:**

16 (1) Information available to the juvenile officer or the division establishes

17 that the child has been in foster care for at least fifteen of the most recent
18 twenty-two months; [or]

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

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

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

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

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

32 (a) Committed murder of another child of the parent; [or]

33 (b) Committed voluntary manslaughter of another child of the parent; [or]

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

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

38 **(4) A court of competent jurisdiction has entered a final**
39 **judgment containing one or more of the required findings under section**
40 **211.446.**

41 3. **[A] The juvenile officer or the division, if the child is in the**
42 **custody or under the supervision of the division, shall file a petition for**
43 termination of parental rights [petition shall be filed by the juvenile officer or the
44 division,] or, if such a petition has been filed by another party, the juvenile officer
45 or the division, **if the child is in the custody or under the supervision of**
46 **the division**, shall seek to be joined as a party to the petition, within sixty days
47 of the judicial determinations required in subsection 2 of this section, except as
48 provided in subsection 4 of this section. Failure to comply with this requirement
49 shall not deprive the court of jurisdiction **or statutory authority** to adjudicate
50 a petition for termination of parental rights which is filed outside of sixty days.

51 4. If grounds exist for termination of parental rights pursuant to
52 subsection 2 of this section, the juvenile officer or the division may, but is not

53 required to, file a petition to terminate the parental rights of the child's parent
54 or parents if:

55 (1) The child is being cared for by a relative; [or]

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

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

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

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

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

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

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

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

81 (b) Chemical dependency which prevents the parent from consistently
82 providing the necessary care, custody and control of the child and which cannot
83 be treated so as to enable the parent to consistently provide such care, custody
84 and control;

85 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
86 toward the child or any child in the family by the parent, including an act of
87 incest, or by another under circumstances that indicate that the parent knew or
88 should have known that such acts were being committed toward the child or any

89 child in the family; or

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

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

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

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

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

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

115 (d) Chemical dependency which prevents the parent from consistently
116 providing the necessary care, custody and control over the child and which cannot
117 be treated so as to enable the parent to consistently provide such care, custody
118 and control; [or]

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

125 [or]

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

131 (6) (a) The parent is unfit to be a party to the parent and child
132 relationship because of a consistent pattern of committing a specific abuse
133 including, but not limited to, specific conditions directly relating to the parent
134 and child relationship which are determined by the court to be of a duration or
135 nature that renders the parent unable for the reasonably foreseeable future to
136 care appropriately for the ongoing physical, mental, or emotional needs of the
137 child.

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

140 a. Within a three-year period immediately prior to the termination
141 adjudication, the parent's parental rights to one or more other children were
142 involuntarily terminated pursuant to subsection 2 or 4 of this section or
143 subdivision (1), (2), (3), or (4) of this subsection or similar laws of other states;

144 b. If the parent is the birth mother and within eight hours after the
145 child's birth, the child's birth mother tested positive and over .08 blood alcohol
146 content pursuant to testing under section 577.020 for alcohol, or tested positive
147 for cocaine, heroin, methamphetamine, a controlled substance as defined in
148 section 195.010, or a prescription drug as defined in section 196.973, excepting
149 those controlled substances or prescription drugs present in the mother's body as
150 a result of medical treatment administered to the mother, and the birth mother
151 is the biological mother of at least one other child who was adjudicated an abused
152 or neglected minor by the mother or the mother has previously failed to complete
153 recommended treatment services by the children's division through a
154 family-centered services case;

155 c. If the parent is the birth mother and at the time of the child's birth or
156 within eight hours after a child's birth the child tested positive for alcohol,
157 cocaine, heroin, methamphetamine, a controlled substance as defined in section
158 195.010, or a prescription drug as defined in section 196.973, excepting those
159 controlled substances or prescription drugs present in the mother's body as a
160 result of medical treatment administered to the mother, and the birth mother is

161 the biological mother of at least one other child who was adjudicated an abused
162 or neglected minor by the mother or the mother has previously failed to complete
163 recommended treatment services by the children's division through a
164 family-centered services case; or

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

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

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

181 (1) The emotional ties to the birth parent;

182 (2) The extent to which the parent has maintained regular visitation or
183 other contact with the child;

184 (3) The extent of payment by the parent for the cost of care and
185 maintenance of the child when financially able to do so including the time that
186 the child is in the custody of the division or other child-placing agency;

187 (4) Whether additional services would be likely to bring about lasting
188 parental adjustment enabling a return of the child to the parent within an
189 ascertainable period of time;

190 (5) The parent's disinterest in or lack of commitment to the child;

191 (6) The conviction of the parent of a felony offense that the court finds is
192 of such a nature that the child will be deprived of a stable home for a period of
193 years; provided, however, that incarceration in and of itself shall not be grounds
194 for termination of parental rights;

195 (7) Deliberate acts of the parent or acts of another of which the parent
196 knew or should have known that subjects the child to a substantial risk of

197 physical or mental harm.

198 8. The court may attach little or no weight to infrequent visitations,
199 communications, or contributions. It is irrelevant in a termination proceeding
200 that the maintenance of the parent-child relationship may serve as an
201 inducement for the parent's rehabilitation.

202 9. In actions for adoption pursuant to chapter 453, the court may hear and
203 determine the issues raised in a petition for adoption containing a prayer for
204 termination of parental rights filed with the same effect as a petition permitted
205 pursuant to subsection 2, 4, or 5 of this section.

206 10. The disability or disease of a parent shall not constitute a basis for a
207 determination that a child is a child in need of care, for the removal of custody
208 of a child from the parent, or for the termination of parental rights without a
209 specific showing that there is a causal relation between the disability or disease
210 and harm to the child.

211 **11. (1) In cases where a child is in the custody, care, or**
212 **supervision of the children's division and the court has entered a final**
213 **judgment finding that one or more of the conditions specified in section**
214 **211.446 or subsection 2 of this section exist, the fact that an adoptive**
215 **resource for the child has not been identified shall not be a relevant**
216 **consideration and shall not constitute a basis for determining whether**
217 **grounds exist for termination of parental rights or whether it is in the**
218 **best interests of the child to terminate the parental rights of the parent**
219 **to the child.**

220 **(2) In cases where a child is in the custody, care, or supervision**
221 **of the division, the division shall exercise active and diligent efforts to**
222 **identify and place a child whose parents have had their parental rights**
223 **terminated with an adoptive family or in a guardianship or to**
224 **otherwise achieve the permanency goal for the child.**

225 **(3) The division shall file a report with the court every six**
226 **months detailing the division's active and diligent efforts to identify**
227 **and place the child with an adoptive family or guardianship, or to**
228 **otherwise achieve the permanency goal for the child until permanency**
229 **has been achieved. At every post-permanency review hearing following**
230 **the entry of a judgment terminating parental rights, the court shall**
231 **review all such reports and may require the division and the parties to**
232 **provide evidence detailing the active and diligent efforts to achieve**

233 **permanency for the child until permanency has been achieved.**

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