

# SENATE BILL NO. 862

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR THOMPSON REHDER.

2844S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 210.560, RSMo, and to enact in lieu thereof one new section relating to money held by the children's division for the benefit of a child.

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

Section A. Section 210.560, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 210.560,  
3 to read as follows:

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

3 (1) "Child", any child placed in the legal custody of  
4 the division under chapter 211;

5 (2) "Division", the children's division of the  
6 department of social services of the state of Missouri;

7 (3) "Money", any legal tender, note, draft,  
8 certificate of deposit, stocks, bond or check;

9 (4) "Unmet needs", **needs for which the division is not**  
10 **required by law to provide financial support, such as:**

11 (a) **Tuition, tutoring, and training, including**  
12 **application fees, books, equipment, and testing;**

13 (b) **Transportation to work, training, education, or to**  
14 **maintain family connections;**

15 (c) **Housing expenses if the child is preparing to**  
16 **leave the custody of the division for reasons relating to**  
17 **the child's age; and**

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

18           (d) **Technology, special clothing needs, instruments,**  
19 **books, and other equipment relating to the child's hobbies**  
20 **and interests;**

21           (5) "Vested right", a legal right that is more than a  
22 mere expectancy and may be reduced to a present monetary  
23 value.

24           2. The child, the child's parents, any fiduciary or  
25 any representative payee holding or receiving money that are  
26 vested rights solely for or on behalf of a child are jointly  
27 and severally liable for funds expended by the division to  
28 or on behalf of the child. The liability of any person,  
29 except a parent of the child, shall be limited to the money  
30 received in his or her fiduciary or representative  
31 capacity. The Missouri state government shall not require a  
32 trustee or a financial institution acting as a trustee to  
33 exercise any discretionary powers in the operation of a  
34 trust.

35           3. (1) The division may accept an appointment to  
36 serve as representative payee or fiduciary, or in a similar  
37 capacity for payments to a child under any public or private  
38 benefit arrangement. Money so received shall be governed by  
39 this section to the extent that laws and regulations  
40 governing payment of such benefits provide otherwise.

41           (2) **In the case of benefits administered by the U.S.**  
42 **Railroad Retirement Board, the Social Security**  
43 **Administration, or the Veterans Administration, the division**  
44 **shall determine whether the child is receiving or otherwise**  
45 **eligible to receive such benefits within sixty days after**  
46 **the child is placed in the division's custody. If the**  
47 **division determines that the child is eligible or may be**  
48 **eligible for the benefits, then the division shall apply for**  
49 **the benefits on behalf of the child. If the child is**

50 already receiving the benefits before being placed in the  
51 division's custody or if the division applies for the  
52 benefits on behalf of the child, then the division shall  
53 identify, in consultation with the child and the child's  
54 legal representative, a representative payee in accordance  
55 with 20 CFR 404.2021 and 20 CFR 416.621 and shall apply to  
56 become the representative payee only if no other suitable  
57 candidate is available. The division shall annually review  
58 if someone other than the division is available, if in the  
59 best interests of the child, to apply to assume the role of  
60 representative payee.

61 (3) The division shall annually review cases of  
62 children in the division's custody to determine whether a  
63 child may have become eligible for benefits after the  
64 division's initial assessment.

65 4. Any money received by the division on behalf of a  
66 child shall be accounted for in the name of the child. Any  
67 money in the account of a child [may] shall not be expended  
68 by the division for care or services for the child,  
69 including, but not limited to, foster care maintenance  
70 expenses, as defined in 42 U.S.C. Section 676(4)(A), and any  
71 special allowances or expenses established by the division  
72 for the care of children in the division's custody for a  
73 child of a similar age; provided, that the division may use  
74 the benefits administered by the U.S. Railroad Retirement  
75 Board, the Social Security Administration, or the Veterans  
76 Administration for the child's unmet needs beyond what the  
77 division is obligated, required, or agrees to pay. The  
78 division shall by rule adopted under chapter 536 establish  
79 procedures for the accounting of the money and the  
80 protection of the money against theft, loss or  
81 misappropriation.

82           5. The division shall deposit money with a financial  
83 institution. Any earnings attributable to the money in the  
84 account of a child shall be credited to that child's  
85 account. The division shall receive bids from banking  
86 corporations, associations or trust companies which desire  
87 to be selected as depositories of children's moneys for the  
88 division. **The child's account shall be established in a**  
89 **manner consistent with federal and state asset and resource**  
90 **limits and may include a special-needs trust, a pooled**  
91 **special-needs trust, an ABLE account, as defined in section**  
92 **209.600, or any other trust account determined not to**  
93 **interfere with asset limitations for any state or federal**  
94 **benefit program for which the child may be eligible.**

95           6. The division may accept funds which a parent,  
96 guardian or other person wishes to provide for the use or  
97 benefit of the child. The use and deposit of such funds  
98 shall be governed by this section and any additional  
99 directions given by the provider of the funds.

100           7. Each child for whose benefit funds have been  
101 received by the division and the guardian ad litem of such  
102 child shall be furnished annually with a statement listing  
103 all transactions involving the funds which have been  
104 deposited on the child's behalf, to include each receipt and  
105 disbursement.

106           8. The division shall use all proper diligence to  
107 dispose of the balance of money accumulated in the child's  
108 account when the child is released from the care and custody  
109 of the division or the child dies. When the child is  
110 deceased the balance shall be disposed of as provided by law  
111 for descent and distribution. If, after the division has  
112 diligently used such methods and means as considered  
113 reasonable to refund such funds, there shall remain any

114 money, the owner of which is unknown to the division, or if  
115 known, cannot be located by the division, in each and every  
116 such instance such money shall escheat and vest in the state  
117 of Missouri, and the director and officials of the division  
118 shall pay the same to the state director of the department  
119 of revenue, taking a receipt therefor, who shall deposit the  
120 money in the state treasury to be credited to a fund to be  
121 designated as "escheat".

122         9. Within five years after money has been paid into  
123 the state treasury, any person who appears and claims the  
124 money may file a petition in the circuit court of Cole  
125 County, Missouri, stating the nature of the claim and  
126 praying that such money be paid to him. A copy of the  
127 petition shall be served upon the director of the department  
128 of revenue who shall file an answer to the same. The court  
129 shall proceed to examine the claim and the allegations and  
130 proof, and if it finds that such person is entitled to any  
131 money so paid into the state treasury, it shall order the  
132 commissioner of administration to issue a warrant on the  
133 state treasurer for the amount of such claim, but without  
134 interest or costs. A certified copy of the order shall be  
135 sufficient voucher for issuing a warrant; provided, that  
136 either party may appeal from the decision of the court in  
137 the same manner as provided by law in other civil actions.

138         10. All moneys paid into the state treasury under the  
139 provisions of this section after remaining there unclaimed  
140 for five years shall escheat and vest absolutely in the  
141 state and be credited to the state treasury, and all persons  
142 shall be forever barred and precluded from setting up title  
143 or claim to any such funds.

144         11. Nothing in this section shall be deemed to apply  
145 to funds regularly due the state of Missouri for the support

146 and maintenance of children in the care and custody of the  
147 division or collected by the state of Missouri as  
148 reimbursement for state funds expended on behalf of the  
149 child.

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