

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR

SENATE BILL NO. 22

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR FLOTRON.

Offered February 25, 1999.

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TERRY L. SPIELER, Secretary.

S0190.07P

AN ACT

To repeal section 135.333, RSMo 1994, and sections 135.326 and 135.327, RSMo Supp. 1998, relating to tax relief for children and families, and to enact in lieu thereof five new sections relating to the same subject, with an effective date for a certain section.

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

Section A. Section 135.333, RSMo 1994, and sections 135.326 and 135.327, RSMo Supp. 1998, are repealed and five new sections enacted in lieu thereof, to be known as sections 135.326, 135.327, 135.333, 135.630 and 1, to read as follows:

135.326. As used in sections 135.325 to 135.339, the following terms shall mean:

(1) "Business entity", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo;

(2) "Handicap", a mental, physical, or emotional impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury

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

or disease, and where the impairment is verified by medical findings;

(3) "Nonrecurring adoption expenses", reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a special needs child and which are not incurred in violation of federal, state, or local law;

(4) "Special needs child", a child for whom it has been determined by the division of family services, **or** by a child placing agency licensed by the state, or by a court of competent jurisdiction to be a child:

(a) That cannot or should not be returned to the home of his or her parents; **[and] or**

(b) Who has a specific factor or condition such as ethnic background, age, membership in a minority or sibling group, medical condition, or handicap because of which it is reasonable to conclude that such child cannot be easily placed with adoptive parents; **[and] or**

(c) **[Except] Where a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents, except when** it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child[, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents];

(5) "State tax liability", any liability incurred by a taxpayer under the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions.

135.327. **1.** Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, **and before January 1, 2000**, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers for nonrecurring adoption expenses in any one fiscal year shall not exceed two million dollars.

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section to a for profit entity shall be at a discount rate of seventy-five percent or greater of the amount sold.

135.333. **1.** Any amount of tax credit which exceeds the tax due shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may be taken for each child adopted.

2. Tax credits that are assigned to not for profit organizations as allowed in section 135.326 may be assigned in their entirety notwithstanding the taxpayer's tax due.

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

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities;

(2) "Director", the director of the department of social services;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148 and 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo;

(5) "Unplanned pregnancy resource center", a nonresidential facility:

(a) Located in this state and established for the purpose of providing assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed and little or no birth control services are provided; and

(c) Which does not perform or refer for abortions and which does not hold itself out as performing or referring for abortions; and

(d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and

(e) Which provides most of its services at no cost; and

(f) Which is exempt from income taxation pursuant to the United States Internal Revenue Code.

In cases where two or more unplanned pregnancy resource centers are controlled by the same corporate entity and more than one-half of the annual income of each such center is derived from common fund-raising efforts which benefit all such centers controlled by the same corporate entity, the director shall make one equal apportionment to the corporate entity and not separate equal apportionments to each facility classified as an unplanned pregnancy resource center and controlled by the same corporate entity. However, for purposes of informing taxpayers of which facilities have been classified as unplanned pregnancy resource centers pursuant to subsection 6 of this section, the director may list separately each unplanned pregnancy resource center controlled by the same corporate entity.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to an unplanned pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to an unplanned pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as unplanned pregnancy resource centers. The director may require of a facility seeking to be classified as an unplanned pregnancy resource center whatever information which is reasonably necessary to make such a determination. The director shall classify a facility as an unplanned pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as an unplanned pregnancy resource center. Unplanned pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to unplanned pregnancy resource centers in any one fiscal year shall not exceed two million dollars.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as unplanned pregnancy resource centers. If an unplanned pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those unplanned pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each unplanned pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the unplanned pregnancy resource center and the amount of the contribution. The director shall provide the information to the director of the department of revenue.

9. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

Section 1. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the department of revenue specifying the name and address of the new owner of the tax credit and its value.

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