

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1034

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCMULLEN.

2312H.01P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 43.400, 43.401, 210.305, 210.565, and 211.221, RSMo, and to enact in lieu thereof six new sections relating to the placement of a child.

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

Section A. Sections 43.400, 43.401, 210.305, 210.565, and 211.221, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections 43.400, 43.401,  
3 210.305, 210.565, 210.795, and 211.221, to read as follows:

43.400. As used in sections 43.400 to 43.410, the following terms mean:

2 (1) "Missing child" or "missing juvenile", any person who is under the age of  
3 ~~seventeen~~ **eighteen years or who is in foster care regardless of the person's age or who is**  
4 **an emancipated minor as defined in section 302.178, a homeless youth as defined in**  
5 **section 167.020, or an unaccompanied minor as defined in section 210.121**, whose  
6 temporary or permanent residence is in the state of Missouri or who is believed to be within  
7 the state of Missouri, whose location has not been determined, and who has been reported as  
8 missing to a law enforcement agency;

9 (2) "Missing child report", a report prepared on a standard form supplied by the  
10 Missouri state highway patrol for the use by private citizens and law enforcement agencies to  
11 report missing children or missing juvenile information to the Missouri state highway patrol;

12 (3) "Missing person", a person who is missing and meets one of the following  
13 characteristics:

14 (a) Is physically or mentally disabled to the degree that the person is dependent upon  
15 an agency or another individual;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (b) Is missing under circumstances indicating that the missing person's safety may be  
17 in danger;

18 (c) Is missing under involuntary or unknown circumstances; subject to the provisions  
19 of (a), (b), (d), (e), and (f) of this subsection;

20 (d) Is a child or juvenile runaway from the residence of a parent, legal guardian, or  
21 custodian;

22 (e) Is a child and is missing under circumstances indicating that the person was or is  
23 in the presence of or under the control of a party whose presence or control was or is in  
24 violation of a permanent or temporary court order and fourteen or more days have elapsed,  
25 during which time the party has failed to file any pleading with the court seeking modification  
26 of the permanent or temporary court order;

27 (f) Is missing under circumstances indicating that the person was or is in the presence  
28 of or under the control of a party whose presence or control was or is in violation of a  
29 permanent or temporary court order and there are reasonable grounds to believe that the  
30 person may be taken outside of the United States;

31 (4) "Patrol", the Missouri state highway patrol;

32 (5) "Registrar", the state registrar of vital statistics.

43.401. 1. The reporting of missing persons by law enforcement agencies, private  
2 citizens, and the responsibilities of the patrol in maintaining accurate records of missing  
3 persons are as follows:

4 (1) A person may file a complaint of a missing person with a law enforcement agency  
5 having jurisdiction. The complaint shall include, but need not be limited to, the following  
6 information:

7 (a) The name of the complainant;

8 (b) The name, address, and phone number of the guardian, if any, of the missing  
9 person;

10 (c) The relationship of the complainant to the missing person;

11 (d) The name, age, address, and all identifying characteristics of the missing person;

12 (e) The length of time the person has been missing; and

13 (f) All other information deemed relevant by either the complainant or the law  
14 enforcement agency;

15 (2) A report of the complaint of a missing person shall be immediately entered into  
16 the Missouri uniform law enforcement system (MULES) and the National Crime Information  
17 Center (NCIC) system by the law enforcement agency receiving the complaint, and  
18 disseminated to other law enforcement agencies who may come in contact with or be  
19 involved in the investigation or location of a missing person;

20 (3) A law enforcement agency with which a complaint of a missing child has been  
21 filed shall prepare, as soon as practicable, a standard missing child report. The missing child  
22 report shall be maintained as a record by the reporting law enforcement agency during the  
23 course of an active investigation;

24 (4) Upon the location of a missing person, or the determination by the law  
25 enforcement agency of jurisdiction that the person is no longer missing, the law enforcement  
26 agency which reported the missing person shall immediately remove the record of the missing  
27 person from the MULES and NCIC files.

28 2. No law enforcement agency shall prevent an immediate active investigation on the  
29 basis of an agency rule which specifies an automatic time limitation for a missing person  
30 investigation.

31 **3. Any agency or placement provider with the care and custody of a child who is**  
32 **missing shall file a missing child complaint with the appropriate law enforcement**  
33 **agency within two hours of determining the child to be missing. The law enforcement**  
34 **agency shall immediately submit information as to the missing child to the National**  
35 **Center for Missing and Exploited Children (NCMEC) including, but not limited to, the**  
36 **name, date of birth, sex, race, height, weight, and eye and hair color of the child; a**  
37 **recent photograph of the child; and the date and location of the last known contact with**  
38 **the child. The law enforcement agency shall institute a proper investigation and search**  
39 **for the missing child and maintain contact with the agency or placement provider**  
40 **making the missing child complaint. The missing child's entry shall not be removed**  
41 **from any database or system until the child is found or the case is closed.**

210.305. 1. When an initial emergency placement of a child is deemed necessary, the  
2 children's division shall immediately begin a diligent search to locate, contact, and place the  
3 child with a grandparent or grandparents or a relative or relatives of the child, subject to  
4 subsection 3 of section 210.565 regarding preference of placement, except when the  
5 children's division determines that placement with a grandparent or grandparents or a relative  
6 or relatives is not in the best interest of the child and subject to the provisions of section  
7 210.482 regarding background checks for emergency placements. If emergency placement of  
8 a child with grandparents or relatives is deemed not to be in the best interest of the child, the  
9 children's division shall document in writing the reason for denial and shall have just cause to  
10 deny the emergency placement. The children's division shall continue the search for other  
11 relatives until the division locates the relatives of the child for placement or the court excuses  
12 further search. Prior to placement of the child in any emergency placement, the division shall  
13 assure that the child's physical needs are met.

14 2. For purposes of this section, the following terms shall mean:

15 (1) "Diligent search", an exhaustive effort to identify and locate the grandparents or  
16 relatives whose identity or location is unknown. **"Diligent search" shall include, but is not**  
17 **limited to:**

18 (a) **Interviews with the child's parent during the course of an investigation, while**  
19 **child protective services are provided, and while such child is in care;**

20 (b) **Interviews with the child;**

21 (c) **Interviews with identified grandparents or relatives throughout the case;**

22 (d) **Interviews with any other person who is likely to have information about the**  
23 **identity or location of the person being sought;**

24 (e) **Comprehensive searches of databases available to the children's division and**  
25 **likely to result in identifying and locating the person being sought;**

26 (f) **Appropriate inquiry during the course of hearings in the case; and**

27 (g) **Any other reasonable means that are likely to identify grandparents,**  
28 **relatives, or other persons who have demonstrated an ongoing commitment to the child;**

29 (2) "Emergency placement", those limited instances when the children's division is  
30 placing for an initial placement a child in the home of private individuals, including  
31 neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary  
32 caretaker.

33 3. A diligent search shall be made to locate, contact, and notify the grandparent or  
34 grandparents of the child within three hours from the time the emergency placement is  
35 deemed necessary for the child. During such three-hour time period, the child may be placed  
36 in an emergency placement. If a grandparent or grandparents of the child cannot be located  
37 within the three-hour period, the child may be temporarily placed in emergency placement;  
38 except that, after the emergency placement is deemed necessary, the children's division shall  
39 continue a diligent search to contact, locate, and place the child with a grandparent or  
40 grandparents, or other relatives, with first consideration given to a grandparent for placement,  
41 subject to subsection 3 of section 210.565 regarding preference of placement.

42 4. A diligent search shall be made to locate, contact, and notify the relative or  
43 relatives of the child within thirty days from the time the emergency placement is deemed  
44 necessary for the child. The children's division shall continue the search for the relative or  
45 relatives until the division locates the relative or relatives of the child for placement, **for six**  
46 **months following the child's out-of-home placement**, or the court excuses further search,  
47 **whichever occurs first. The department shall resume search efforts if ordered by the**  
48 **court, a change in the child's placement occurs, or a party shows that continuing the**  
49 **search is in the best interests of the child.** The children's division, or an entity under  
50 contract with the division, shall use all sources of information, including any known parent or  
51 relative, to attempt to locate an appropriate relative as placement.

52           5. ~~[Search progress under subsection 3 or 4 of this section shall be reported at each~~  
53 ~~court hearing until the grandparents or relatives are either located or the court excuses further~~  
54 ~~search.]~~ **The children's division shall file with the court information regarding attempts**  
55 **made under this section within thirty days from the date the child was removed from his**  
56 **or her home, or as otherwise required by the court, and at each periodic review hearing.**  
57 **Such information shall include:**

58           **(1) A detailed narrative explaining the division's efforts to find and consider**  
59 **each potential placement and the specific outcome;**

60           **(2) The names of and relevant information about grandparents and relatives of**  
61 **the child;**

62           **(3) Steps taken by the division to locate and contact grandparents and relatives**  
63 **of the child;**

64           **(4) Responses received from grandparents and relatives of the child;**

65           **(5) Dates of each attempted or completed contact with a grandparent or relative**  
66 **of the child;**

67           **(6) Reasons why a grandparent or relative of the child was not considered for**  
68 **emergency or permanent placement of the child; and**

69           **(7) All efforts for placement of the child through an interstate compact**  
70 **agreement under section 210.620, including:**

71           **(a) The names of grandparents or relatives of the child who were considered for**  
72 **an interstate placement;**

73           **(b) Any pending placement of the child through an interstate compact**  
74 **agreement; and**

75           **(c) All potential out-of-state placements outside of an interstate compact**  
76 **agreement and the reasons such placements have not been initiated.**

77

78 **If an out-of-state placement option exists and the division has failed to file a request with**  
79 **the receiving state under the requirements of an interstate compact agreement under**  
80 **section 210.620, the court shall enter a finding that the division has not made a due**  
81 **diligence search and shall order the division to file a request with the receiving state**  
82 **under the terms of the interstate compact.**

83           **6. All grandparents or relatives to the child identified in a diligent search**  
84 **required by this section, subject to exceptions due to family or domestic violence or**  
85 **other safety concerns, shall be provided with notice, via certified mail as appropriate,**  
86 **that includes, but is not limited to:**

87           **(1) A specification that an alleged dependent child has been or is being removed**  
88 **from his or her parental custody;**

89           **(2) An explanation of the options a grandparent or relative has to participate in**  
90 **the care and placement of the alleged dependent child and any options that may be lost**  
91 **by failing to respond to the notice;**

92           **(3) A description of the process for becoming a licensed foster family home and**  
93 **the additional services and supports available for children placed in approved foster**  
94 **homes;**

95           **(4) A description of any financial assistance for which a grandparent or relative**  
96 **may be eligible; and**

97           **(5) An explanation that any response received after thirty days or willful failure**  
98 **to respond upon receiving a notice may result in the grandparent or relative of the child**  
99 **not being considered for placement.**

100           **7. If a grandparent or relative entitled to notice under this section fails to**  
101 **respond to the division, responds and declines to be considered as placement for the**  
102 **child, or is otherwise presently prevented from being considered as placement for the**  
103 **child and later petitions the court for a change in placement, such person shall provide**  
104 **evidence that such change is in the child's best interests.**

105           **8. Nothing in this section shall be construed or interpreted to interfere with or**  
106 **supersede laws related to parental rights or judicial authority.**

210.565. 1. Whenever a child is placed in a foster home and the court has determined  
2 pursuant to subsection 4 of this section that foster home placement with relatives is not  
3 contrary to the best interest of the child, the children's division shall give foster home  
4 placement to relatives of the child. Notwithstanding any rule of the division to the contrary  
5 **and under section 210.305**, the children's division shall complete a diligent search to locate  
6 and notify the grandparents, adult siblings, parents of siblings of the child, and all other  
7 relatives and determine whether they wish to be considered for placement of the child.  
8 Grandparents who request consideration shall be given preference and first consideration for  
9 foster home placement of the child. If more than one grandparent requests consideration, the  
10 family support team shall make recommendations to the juvenile or family court about which  
11 grandparent should be considered for placement.

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

13           (1) "Adult sibling", any brother or sister of whole or half-blood who is at least  
14 eighteen years of age;

15           (2) "Relative", a grandparent or any other person related to another by blood or  
16 affinity or a person who is not so related to the child but has a close relationship with the child  
17 or the child's family. **A foster parent or kinship caregiver with whom a child has resided**  
18 **for nine months or more is a person who has a close relationship with the child.** The

19 status of a grandparent shall not be affected by the death or the dissolution of the marriage of  
20 a son or daughter;

21 (3) "Sibling", one of two or more individuals who have one or both parents in  
22 common through blood, marriage, or adoption, including siblings as defined by the child's  
23 tribal code or custom.

24 3. The following shall be the order or preference for placement of a child under this  
25 section:

26 (1) Grandparents;

27 (2) Adult siblings or parents of siblings;

28 (3) Relatives [~~related by blood or affinity within the third degree~~]; **and**

29 (4) [~~Other relatives; and~~

30 ~~(5)] Any foster parent who is currently licensed and capable of accepting placement  
31 of the child.~~

32 4. The preference for placement and first consideration for grandparents or preference  
33 for placement with other relatives created by this section shall only apply where the court  
34 finds that placement with such grandparents or other relatives is not contrary to the best  
35 interest of the child considering all circumstances. If the court finds that it is contrary to the  
36 best interest of a child to be placed with grandparents or other relatives, the court shall make  
37 specific findings on the record detailing the reasons why the best interests of the child  
38 necessitate placement of the child with persons other than grandparents or other relatives.  
39 **Absent evidence to the contrary, the court may presume that continuation of the child's**  
40 **placement with his or her current caregivers is in the child's best interests.**

41 5. Recognizing the critical nature of sibling bonds for children, the children's division  
42 shall make reasonable efforts to place siblings in the same foster care, kinship, guardianship,  
43 or adoptive placement, unless doing so would be contrary to the safety or well-being of any of  
44 the siblings. If siblings are not placed together, the children's division shall make reasonable  
45 efforts to provide frequent visitation or other ongoing interaction between the siblings, unless  
46 this interaction would be contrary to a sibling's safety or well-being.

47 6. The age of the child's grandparent or other relative shall not be the only factor that  
48 the children's division takes into consideration when it makes placement decisions and  
49 recommendations to the court about placing the child with such grandparent or other relative.

50 7. For any Native American child placed in protective custody, the children's division  
51 shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

52 8. A grandparent or other relative may, on a case-by-case basis, have standards for  
53 licensure not related to safety waived for specific children in care that would otherwise  
54 impede licensing of the grandparent's or relative's home. In addition, any person receiving a

55 preference may be licensed in an expedited manner if a child is placed under such person's  
56 care.

57 9. The guardian ad litem shall ascertain the child's wishes and feelings about his or  
58 her placement by conducting an interview or interviews with the child, if appropriate based  
59 on the child's age and maturity level, which shall be considered as a factor in placement  
60 decisions and recommendations, but shall not supersede the preference for relative placement  
61 created by this section or be contrary to the child's best interests.

**210.795. 1. (1) A child in the care and custody of the children's division whose  
2 physical whereabouts are unknown to the division, the child's physical custodian, or  
3 contracted service providers shall be considered missing and the case manager or  
4 placement provider shall immediately inform a law enforcement agency having  
5 jurisdiction and the National Center for Missing and Exploited Children within two  
6 hours of discovery that the child is missing.**

7 **(2) The case manager shall document the report number and any relevant  
8 information in the child's record.**

9 **(3) Within twenty-four hours of a report being made under this subsection, the  
10 department shall inform and obtain information about the child's disappearance from  
11 the child's parents, known relatives, out-of-home caregivers, attorney, guardian or  
12 guardian ad litem, court appointed special advocate, juvenile officer, or Indian tribe, as  
13 applicable, or from any other person known to the department who may have relevant  
14 information regarding the child's disappearance.**

15 **(4) The case manager shall:**

16 **(a) Within one week and monthly thereafter, maintain contact with the child's  
17 family members, friends, school faculty, and service providers and with any other  
18 person or agency involved in the child's case;**

19 **(b) Document ongoing efforts to locate the child; and**

20 **(c) Continue contacting law enforcement about the missing child and shall make  
21 quarterly reports to the court about the status of the child and efforts to locate the child.**

22

23 **The department shall contact law enforcement every seven days and document the  
24 information provided and any information received.**

25 **(5) The division shall not petition the court for a release of jurisdiction for the  
26 child or stop searching for the child while the child is missing until the child reaches the  
27 age of twenty-one.**

28 **2. The division shall maintain protocols, including appropriate trainings, for  
29 conducting ongoing searches for children missing from care. Such protocols shall  
30 include preventative measures to identify and mitigate risk to children who are at**



31 **increased risk for running away or disappearing or of being victims of trafficking as**  
32 **defined under section 566.200.**

33 **3. The division shall ensure that each child in the care and custody of the division**  
34 **has an updated photograph in the child's record.**

35 **4. When a child is located, the department shall:**

36 **(1) Inform all law enforcement agencies and organizations involved in the child's**  
37 **case; and**

38 **(2) Have in-person contact with the child within twenty-four hours after the**  
39 **child is located to assess the child's health, experiences while absent, the appropriateness**  
40 **of the child returning to the child's current placement, and the factors that contributed**  
41 **to the child's absence.**

42 **5. Any employee or contractor with the children's division, child welfare**  
43 **agencies, other state agencies, or schools shall, upon becoming aware that an**  
44 **emancipated minor as defined in section 302.178, a homeless youth as defined in**  
45 **section 167.020, or an unaccompanied minor as defined in section 210.121 is missing,**  
46 **inform the appropriate law enforcement agency and the National Center for Missing**  
47 **and Exploited Children within twenty-four hours.**

48 **6. Within twenty-four hours of a missing child being found, the division shall**  
49 **assess whether the child was a victim of trafficking and determine any factors that**  
50 **caused the child to go missing.**

51 **7. The legislature may require an annual independent audit of the department's**  
52 **compliance with this section.**

211.221. In placing a child in or committing a child to the custody of an individual or  
2 of a private agency or institution the court, **children's division, or any child placing agency**  
3 **contracting with the state to provide foster care services** shall whenever practicable select  
4 either a person, or an agency or institution governed by persons of the same religious faith as  
5 that of the parents of such child, or in case of a difference in the religious faith of the parents,  
6 then of the religious faith of the child or if the religious faith of the child is not ascertainable,  
7 then of the faith of either of the parents.

✓