

SECOND REGULAR SESSION

HOUSE BILL NO. 1372

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MILLER.

4805H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 210.145, RSMo, and to enact in lieu thereof one new section relating to child abuse or neglect reports.

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

Section A. Section 210.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.145, to read as follows:

210.145. 1. The division shall develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

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.

17 3. Upon receipt of a report, the division shall determine if the report merits investigation,
18 including reports which if true would constitute a suspected violation of any of the following:
19 section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen
20 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,
21 or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the
22 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than
23 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or
24 568.090, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such
25 crimes. The division shall immediately communicate all reports that merit investigation to its
26 appropriate local office and any relevant information as may be contained in the information
27 system. The local division staff shall determine, through the use of protocols developed by the
28 division, whether an investigation or the family assessment and services approach should be used
29 to respond to the allegation. The protocols developed by the division shall give priority to
30 ensuring the well-being and safety of the child.

31 4. When the child abuse and neglect hotline receives three or more calls, within a
32 seventy-two hour period, from one or more individuals concerning the same child, the division
33 shall conduct a review to determine whether the calls meet the criteria and statutory definition
34 for a child abuse and neglect report to be accepted. In conducting the review, the division shall
35 contact the hotline caller or callers in order to collect information to determine whether the calls
36 meet the criteria for harassment.

37 5. The local office shall contact the appropriate law enforcement agency immediately
38 upon receipt of a report which division personnel determine merits an investigation and provide
39 such agency with a detailed description of the report received. In such cases the local division
40 office shall request the assistance of the local law enforcement agency in all aspects of the
41 investigation of the complaint. The appropriate law enforcement agency shall either assist the
42 division in the investigation or provide the division, within twenty-four hours, an explanation
43 in writing detailing the reasons why it is unable to assist.

44 6. The local office of the division shall cause an investigation or family assessment and
45 services approach to be initiated in accordance with the protocols established in subsection 2 of
46 this section, except in cases where the sole basis for the report is educational neglect. If the
47 report indicates that educational neglect is the only complaint and there is no suspicion of other
48 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the
49 report. If the report indicates the child is in danger of serious physical harm or threat to life, an
50 investigation shall include direct observation of the subject child within twenty-four hours of the
51 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct
52 observation. Callers to the child abuse and neglect hotline shall be instructed by the division's

53 hotline to call 911 in instances where the child may be in immediate danger. If the parents of the
54 child are not the alleged perpetrators, a parent of the child must be notified prior to the child
55 being interviewed by the division. No person responding to or investigating a child abuse and
56 neglect report shall call prior to a home visit or leave any documentation of any attempted visit,
57 such as business cards, pamphlets, or other similar identifying information if he or she has a
58 reasonable basis to believe the following factors are present:

- 59 (1) (a) No person is present in the home at the time of the home visit; and
60 (b) The alleged perpetrator resides in the home or the physical safety of the child may
61 be compromised if the alleged perpetrator becomes aware of the attempted visit;
62 (2) The alleged perpetrator will be alerted regarding the attempted visit; or
63 (3) The family has a history of domestic violence or fleeing the community.

64 If the alleged perpetrator is present during a visit by the person responding to or investigating
65 the report, such person shall provide written material to the alleged perpetrator informing him
66 or her of his or her rights regarding such visit, including but not limited to the right to contact
67 an attorney. The alleged perpetrator shall be given a reasonable amount of time to read such
68 written material or have such material read to him or her by the case worker before the visit
69 commences, but in no event shall such time exceed five minutes; except that, such requirement
70 to provide written material and reasonable time to read such material shall not apply in cases
71 where the child faces an immediate threat or danger, or the person responding to ~~or~~ investigating
72 the report is or feels threatened or in danger of physical harm. If the abuse is alleged to have
73 occurred in a school or child care facility the division shall not meet with the child in any school
74 building or child-care facility building where abuse of such child is alleged to have occurred.
75 When the child is reported absent from the residence, the location and the well-being of the child
76 shall be verified. For purposes of this subsection, child care facility shall have the same meaning
77 as such term is defined in section 210.201.

78 7. The director of the division shall name at least one chief investigator for each local
79 division office, who shall direct the division response on any case involving a second or
80 subsequent incident regarding the same subject child or perpetrator. The duties of a chief
81 investigator shall include verification of direct observation of the subject child by the division
82 and shall ensure information regarding the status of an investigation is provided to the public
83 school district liaison. The public school district liaison shall develop protocol in conjunction
84 with the chief investigator to ensure information regarding an investigation is shared with
85 appropriate school personnel. The superintendent of each school district shall designate a
86 specific person or persons to act as the public school district liaison. Should the subject child
87 attend a nonpublic school the chief investigator shall notify the school principal of the
88 investigation. Upon notification of an investigation, all information received by the public

89 school district liaison or the school shall be subject to the provisions of the federal Family
90 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34
91 C.F.R., Part 99.

92 8. The investigation shall include but not be limited to the nature, extent, and cause of
93 the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the
94 names and conditions of other children in the home, if any; the home environment and the
95 relationship of the subject child to the parents or other persons responsible for the child's care;
96 any indication of incidents of physical violence against any other household or family member;
97 and other pertinent data.

98 9. When a report has been made by a person required to report under section 210.115,
99 the division shall contact the person who made such report within forty-eight hours of the receipt
100 of the report in order to ensure that full information has been received and to obtain any
101 additional information or medical records, or both, that may be pertinent.

102 10. Upon completion of the investigation, if the division suspects that the report was
103 made maliciously or for the purpose of harassment, the division shall refer the report and any
104 evidence of malice or harassment to the local prosecuting or circuit attorney.

105 11. **Upon completion of an investigation, if the division concludes that the report**
106 **was unsubstantiated, the division shall refer the report and any evidence of malice or**
107 **harassment to the local prosecuting attorney or circuit attorney.**

108 12. Multidisciplinary teams shall be used whenever conducting the investigation as
109 determined by the division in conjunction with local law enforcement. Multidisciplinary teams
110 shall be used in providing protective or preventive social services, including the services of law
111 enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and
112 other agencies, both public and private.

113 [12.] 13. For all family support team meetings involving an alleged victim of child abuse
114 or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or
115 custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the
116 child shall be provided notice and be permitted to attend all such meetings. Family members,
117 other than alleged perpetrators, or other community informal or formal service providers that
118 provide significant support to the child and other individuals may also be invited at the discretion
119 of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal
120 guardian or custodian and the foster parents may request that other individuals, other than alleged
121 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or
122 attends such team meetings, the division or the convenor of the meeting shall provide such
123 persons with notice of all such subsequent meetings involving the child. Families may determine
124 whether individuals invited at their discretion shall continue to be invited.

125 [13.] 14. If the appropriate local division personnel determine after an investigation has
126 begun that completing an investigation is not appropriate, the division shall conduct a family
127 assessment and services approach. The division shall provide written notification to local law
128 enforcement prior to terminating any investigative process. The reason for the termination of
129 the investigative process shall be documented in the record of the division and the written
130 notification submitted to local law enforcement. Such notification shall not preclude nor prevent
131 any investigation by law enforcement.

132 [14.] 15. If the appropriate local division personnel determines to use a family
133 assessment and services approach, the division shall:

134 (1) Assess any service needs of the family. The assessment of risk and service needs
135 shall be based on information gathered from the family and other sources;

136 (2) Provide services which are voluntary and time-limited unless it is determined by the
137 division based on the assessment of risk that there will be a high risk of abuse or neglect if the
138 family refuses to accept the services. The division shall identify services for families where it
139 is determined that the child is at high risk of future abuse or neglect. The division shall
140 thoroughly document in the record its attempt to provide voluntary services and the reasons these
141 services are important to reduce the risk of future abuse or neglect to the child. If the family
142 continues to refuse voluntary services or the child needs to be protected, the division may
143 commence an investigation;

144 (3) Commence an immediate investigation if at any time during the family assessment
145 and services approach the division determines that an investigation, as delineated in sections
146 210.109 to 210.183, is required. The division staff who have conducted the assessment may
147 remain involved in the provision of services to the child and family;

148 (4) Document at the time the case is closed, the outcome of the family assessment and
149 services approach, any service provided and the removal of risk to the child, if it existed.

150 [15.] 16. (1) Within forty-five days of an oral report of abuse or neglect, the local office
151 shall update the information in the information system. The information system shall contain,
152 at a minimum, the determination made by the division as a result of the investigation, identifying
153 information on the subjects of the report, those responsible for the care of the subject child and
154 other relevant dispositional information. The division shall complete all investigations within
155 forty-five days, unless good cause for the failure to complete the investigation is specifically
156 documented in the information system. Good cause for failure to complete an investigation shall
157 include, but not be limited to:

158 (a) The necessity to obtain relevant reports of medical providers, medical examiners,
159 psychological testing, law enforcement agencies, forensic testing, and analysis of relevant
160 evidence by third parties which has not been completed and provided to the division;

161 (b) The attorney general or the prosecuting or circuit attorney of the city or county in
162 which a criminal investigation is pending certifies in writing to the division that there is a
163 pending criminal investigation of the incident under investigation by the division and the issuing
164 of a decision by the division will adversely impact the progress of the investigation; or

165 (c) The child victim, the subject of the investigation or another witness with information
166 relevant to the investigation is unable or temporarily unwilling to provide complete information
167 within the specified time frames due to illness, injury, unavailability, mental capacity, age,
168 developmental disability, or other cause.

169 The division shall document any such reasons for failure to complete the investigation.

170 (2) If a child fatality or near-fatality is involved in a report of abuse or neglect, the
171 investigation shall remain open until the division's investigation surrounding such death or
172 near-fatal injury is completed.

173 (3) If the investigation is not completed within forty-five days, the information system
174 shall be updated at regular intervals and upon the completion of the investigation, which shall
175 be completed no later than ninety days after receipt of a report of abuse or neglect, or one
176 hundred twenty days after receipt of a report of abuse or neglect involving sexual abuse, or until
177 the division's investigation is complete in cases involving a child fatality or near-fatality. The
178 information in the information system shall be updated to reflect any subsequent findings,
179 including any changes to the findings based on an administrative or judicial hearing on the
180 matter.

181 [16.] 17. A person required to report under section 210.115 to the division and any
182 person making a report of child abuse or neglect made to the division which is not made
183 anonymously shall be informed by the division of his or her right to obtain information
184 concerning the disposition of his or her report. Such person shall receive, from the local office,
185 if requested, information on the general disposition of his or her report. Such person may
186 receive, if requested, findings and information concerning the case. Such release of information
187 shall be at the discretion of the director based upon a review of the reporter's ability to assist in
188 protecting the child or the potential harm to the child or other children within the family. The
189 local office shall respond to the request within forty-five days. The findings shall be made
190 available to the reporter within five days of the outcome of the investigation. If the report is
191 determined to be unsubstantiated, the reporter may request that the report be referred by the
192 division to the office of child advocate for children's protection and services established in
193 sections 37.700 to 37.730. Upon request by a reporter under this subsection, the division shall
194 refer an unsubstantiated report of child abuse or neglect to the office of child advocate for
195 children's protection and services.

196 [17.] **18.** The division shall provide to any individual who is not satisfied with the results
197 of an investigation information about the office of child advocate and the services it may provide
198 under sections 37.700 to 37.730.

199 [18.] **19.** In any judicial proceeding involving the custody of a child the fact that a report
200 may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

201 (1) Nothing in this subsection shall prohibit the introduction of evidence from
202 independent sources to support the allegations that may have caused a report to have been made;
203 and

204 (2) The court may on its own motion, or shall if requested by a party to the proceeding,
205 make an inquiry not on the record with the children's division to determine if such a report has
206 been made.

207 If a report has been made, the court may stay the custody proceeding until the children's division
208 completes its investigation.

209 [19.] **20.** In any judicial proceeding involving the custody of a child where the court
210 determines that the child is in need of services under paragraph (d) of subdivision (1) of
211 subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or
212 custodian shall not be entered into the registry.

213 [20.] **21.** The children's division is hereby granted the authority to promulgate rules and
214 regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the
215 provisions of sections 210.109 to 210.183.

216 [21.] **22.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
217 created under the authority delegated in this section shall become effective only if it complies
218 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
219 This section and chapter 536 are nonseverable and if any of the powers vested with the general
220 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and
221 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
222 any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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