

FIRST REGULAR SESSION

HOUSE BILL NO. 560

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE INGLE.

1209H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 210, RSMo, by adding thereto sixteen new sections relating to the protection of children, with penalty provisions and an emergency clause.

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

Section A. Chapter 210, RSMo, is amended by adding thereto sixteen new sections, to be known as sections 210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263, 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 210.1277, 210.1280, 210.1283, and 210.1286, to read as follows:

210.143. 1. The children's division, juvenile officer, or prosecuting attorney may petition the circuit court for an order directing a child residential home, as defined under section 210.1253, that is the subject of an investigation of child abuse or neglect to present the child at a place and time designated by the court to a children's division worker for an assessment of the child's health, safety, and well-being.

2. The court shall enter an order under this section if:

(1) The court determines that there is reasonable suspicion to suspect that the child has been abused or neglected and the child residential home does not voluntarily provide access to the child;

(2) The assessment is reasonably necessary for the completion of an investigation or the collection of evidence; and

(3) Doing so is in the best interest of the child.

3. The petition and order may be made on an ex parte basis if it is reasonable to believe that providing notice may place the child at risk for further abuse or neglect, if it is reasonable to believe that providing notice may cause the child to be removed from the

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 state of Missouri or the jurisdiction of the court, or if it is reasonable to believe that
17 evidence relevant to the investigation will be unavailable if the ex parte order is not
18 entered.

19 4. Any person served with a subpoena, petition, or order under this section shall
20 not be required to file an answer, but may file a motion for a protective order or other
21 appropriate relief. The motion shall be filed at or before the time for production or
22 disclosure set out in the subpoena or order. The motion shall be in writing, but it may be
23 informal and no particular form shall be required. The clerk shall serve a copy of the
24 motion on the director of the children's division or on the agency who applied for the
25 order. The court shall expedite a hearing on the motion and shall issue its decision no later
26 than one business day after the date the motion is filed. The court may review the motion
27 in camera and stay implementation of the order once for up to three days. Any
28 information that may reveal the identity of a hotline reporter shall not be disclosed to
29 anyone in any proceeding under this subsection unless otherwise allowed by law.

30 5. The petition for a subpoena or an order under this section shall be filed in the
31 juvenile or family court that may have taken judicial custody of the child under section
32 211.031 or in the circuit court of the county:

33 (1) Where the child resides;

34 (2) Where the child may be found;

35 (3) Where the child residential home is located;

36 (4) Where the alleged perpetrator of the child abuse or neglect resides or may be
37 found;

38 (5) Where the subject of the subpoena may be located or found; or

39 (6) Of Cole if none of the other venue provisions of this subsection apply.

40 6. The court shall expedite all proceedings under this section so as to ensure the
41 safety of the child, the preservation of relevant evidence, that child abuse and neglect
42 investigations may be completed within statutory time frames, and that due process is
43 provided to the parties involved.

44 7. Any person who knowingly violates this subsection shall be guilty of a class A
45 misdemeanor.

46 8. The time frames for the children's division to complete its investigation and
47 notify the alleged perpetrator of its decision set forth in sections 210.145, 210.152, and
48 210.183 shall be tolled from the date that the division files a petition for a subpoena until
49 the information is produced in full, until such subpoena is withdrawn, or until a court of
50 competent jurisdiction quashes such subpoena.

210.1250. Sections 210.1250 to 210.1286 shall be known and may be cited as the
2 "Child Residential Home Notification Act".

210.1253. As used in sections 210.1250 to 210.1286, unless the context clearly
2 provides otherwise, the following terms mean:

3 (1) "Child", a person who is under eighteen years of age or who has not otherwise
4 been legally emancipated;

5 (2) "Child residential home", any place, facility, or home operated by any person
6 that receives children who are not related to the operator and whose parent or guardian
7 is not a resident of the same facility and that provides such children with supervision, care,
8 lodging, and maintenance for twenty-four hours a day, with or without transfer of custody;

9 (3) "Department", the department of social services;

10 (4) "Executive director", a person who assumes all responsibility for the child
11 residential home;

12 (5) "Person", an individual, partnership, organization, association, or corporation.

210.1256. The department shall be the notification agency for all child residential
2 homes, and the department shall discharge as additional duties and responsibilities the
3 provisions of sections 210.1250 to 210.1286.

210.1259. 1. The operator of any child residential home shall provide notification
2 in accordance with sections 210.1250 to 210.1286 before such operator shall accept any
3 children.

4 2. All child residential homes operating on the effective date of sections 210.1250
5 to 210.1286 shall register accordingly within six months after the effective date of sections
6 210.1250 to 210.1286.

7 3. The provisions of sections 210.1250 to 210.1286 shall not apply to any child
8 residential home that is already licensed, registered, or otherwise monitored for health and
9 safety by an agency of the state.

210.1262. The notification shall be filed by the executive director of the child
2 residential home to the department on forms provided by the department and shall contain
3 the following information:

4 (1) Name, street address, mailing address, and phone number of the home;

5 (2) Name of the executive director and all staff members of the home;

6 (3) Name and description of the agency or organization operating the home,
7 including a statement as to whether the agency or organization is incorporated;

8 (4) Name and address of the sponsoring organization of the home, if applicable;

9 (5) School or schools attended by the children served by the home;

10 (6) Fire and safety inspection certificate;

11 (7) Local health department inspection certificate; and

12 (8) Proof that medical records are maintained for each child.

2010.1263. 1. In addition to the information required under section 210.1262, the
2 child residential home shall provide to the department proof that the home has submitted
3 and will continue to submit the qualifying results of either a Federal Bureau of
4 Investigation fingerprint check or a search of the Missouri criminal registry or repository
5 with the use of fingerprints of all employees, prospective employees, volunteers, and
6 prospective volunteers at the home.

7 2. Upon completion of the criminal background check under subsection 1 of this
8 section, any child residential home employee, prospective employee, volunteer, or
9 prospective volunteer shall be ineligible for employment or presence at the home if the
10 employee, prospective employee, volunteer, or prospective volunteer:

11 (1) Refuses to consent to the criminal background check as required by this section;

12 (2) Knowingly makes a materially false statement in connection with the criminal
13 background check as required by this section;

14 (3) Is registered, or is required to be registered, on a state sex offender registry or
15 repository or the National Sex Offender Registry;

16 (4) Is listed as a perpetrator of child abuse or neglect under sections 210.109 to
17 210.183 or any other finding of child abuse or neglect based on any other state's registry
18 or database; or

19 (5) Has pled guilty or nolo contendere to or been found guilty of:

20 (a) Any felony for an offense against the person as defined in chapter 565;

21 (b) Any other offense against the person involving the endangerment of a child as
22 prescribed by law;

23 (c) Any misdemeanor or felony for a sexual offense as defined in chapter 566;

24 (d) Any misdemeanor or felony for an offense against the family as defined in
25 chapter 568;

26 (e) Burglary in the first degree as defined in 569.160;

27 (f) Any misdemeanor or felony for robbery as defined in chapter 570;

28 (g) Any misdemeanor or felony for pornography or related offense as defined in
29 chapter 573;

30 (h) Any felony for arson as defined in chapter 569;

31 (i) Any felony for armed criminal action as defined in section 571.015, unlawful use
32 of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in
33 section 571.070, or the unlawful possession of an explosive as defined in section 571.072;

34 (j) Any felony for making a terrorist threat as defined in section 574.115, 574.120,
35 or 574.125;

36 (k) A felony drug-related offense committed during the preceding five years; or

37 (l) Any similar offense in any federal, state, municipal, or other court of similar
38 jurisdiction of which the director of the designated department has knowledge.

210.1264. Upon request by the department, the child residential home shall present
2 to the department a full census of children at such home, including parental or other
3 guardian contact information.

210.1265. The child residential home shall comply with all fire, safety, health, and
2 sanitation inspections required under section 210.252.

210.1268. When the department is advised or has reason to believe that any child
2 residential home is operating without proper notification in accordance with sections
3 210.1250 to 210.1286, the department shall request a meeting with the governing board and
4 executive director of such home to ascertain the fact. If the department finds that such
5 home is providing supervision, care, lodging, or maintenance for any children without such
6 notification, it shall give the executive director of the home written notice by certified mail
7 that such person shall file notification in accordance with sections 210.1250 to 210.1286
8 within thirty days after receipt of such notice, or the department may request a court
9 injunction as provided under section 210.1271.

210.1271. 1. Notwithstanding any other remedy, the department may, as provided
2 by law, upon the advice of the attorney general who shall represent the department in the
3 proceedings, maintain an action in the name of the state for an injunction or restraining
4 order to cease the operation of the home, and to provide for the appropriate removal of the
5 children from the home and placement in the custody of the parent or legal guardian, the
6 department, or any other appropriate entity in the discretion of the court. Such action
7 shall be brought in the appropriate court of the county in which such child residential
8 home is located and shall only be initiated for the following violations:

9 (1) Providing supervision, care, lodging, or maintenance for any children in such
10 home without filing notification in accordance with sections 210.1250 to 210.1286;

11 (2) Failing to satisfactorily comply with the inspections required under section
12 210.252; or

13 (3) Suspected abuse or neglect of the children served by such home.

14 2. The department shall notify the attorney general of any case in which the
15 department makes a referral to a juvenile officer for removal of a child from a child
16 residential home. The notification shall include any violations under subsection 1 of this
17 section.

210.1274. Nothing in sections 210.1250 to 210.1286 shall give any governmental agency jurisdiction or authority to regulate or attempt to regulate, control, or influence the form, manner, or content of the religious curriculum, program, or ministry of a school or of a facility sponsored by a church or religious organization.

210.1277. Any required registration fee shall be used for the implementation of the provisions of sections 210.1250 to 210.1286.

210.1280. The department shall maintain a list of all child residential homes in compliance with sections 210.1250 to 210.1286, and the list shall be provided upon request. The list shall also include information regarding how a person may obtain information about the nature and disposition of any child abuse reports at or related to the child residential home.

210.1283. 1. Any person who fails to complete a criminal background check required under section 210.1262 is guilty of a class B misdemeanor.

2. In addition to the penalty imposed under subsection 1 of this section, the department shall, by rule, determine any additional penalties for any child residential home that fails to conduct a criminal background check required under section 210.1262.

210.1286. The department shall promulgate rules and regulations necessary for the implementation of sections 210.1250 to 210.1286. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of sections 210.1250 to 210.1286 shall be invalid and void.

Section B. Because immediate action is necessary to protect children, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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