

SECOND REGULAR SESSION

SENATE BILL NO. 758

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 7, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5601S.011

AN ACT

To repeal sections 210.135 and 210.145, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect.

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

Section A. Sections 210.135 and 210.145, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 210.135 and
3 210.145, to read as follows:

210.135. 1. Any person, official, or institution complying with the
2 provisions of sections 210.110 to 210.165 in the making of a report, the taking of
3 color photographs, or the making of radiologic examinations pursuant to sections
4 210.110 to 210.165, or both such taking of color photographs and making of
5 radiologic examinations, or the removal or retaining a child pursuant to sections
6 210.110 to 210.165, or in cooperating with the division, or any other law
7 enforcement agency, juvenile office, court, or child-protective service agency of
8 this or any other state, in any of the activities pursuant to sections 210.110 to
9 210.165, or any other allegation of child abuse, neglect or assault, pursuant to
10 sections 568.045 to 568.060, shall have immunity from any liability, civil or
11 criminal, that otherwise might result by reason of such actions. Provided,
12 however, any person, official or institution intentionally filing a false report,
13 acting in bad faith, or with ill intent, shall not have immunity from any liability,
14 civil or criminal. Any such person, official, or institution shall have the same
15 immunity with respect to participation in any judicial proceeding resulting from
16 the report.

17 2. Any person, who is not a school district employee, who makes a report
18 to any employee of the school district of child abuse by a school employee shall

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

19 have immunity from any liability, civil or criminal, that otherwise might result
20 because of such report. Provided, however, that any such person who makes a
21 false report, knowing that the report is false, or who acts in bad faith or with ill
22 intent in making such report shall not have immunity from any liability, civil or
23 criminal. Any such person shall have the same immunity with respect to
24 participation in any judicial proceeding resulting from the report.

25 **3. In a case in which a child dies or is seriously injured after a**
26 **report is made under sections 210.109 to 210.165, the hotline worker or**
27 **workers taking any reports related to such case and division case**
28 **worker or workers assigned to the investigation of such report and the**
29 **circuit manager assigned to the county in which the report was**
30 **investigated shall receive a preliminary evaluation by the division to**
31 **determine if an assessment to establish whether the worker and circuit**
32 **manager is able to competently perform his or her duties of each**
33 **worker and circuit manager is required. If required, the assessment**
34 **shall be completed within three days of the child's death.**

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

- 2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;
- 4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;
- 6 (3) Providing due process for those accused of child abuse or neglect; and
- 7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

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

19 3. Upon receipt of a report, the division shall determine if the report
20 merits investigation, including reports which if true would constitute a suspected

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

35 **4. When three or more calls to the child abuse and neglect**
36 **hotline are made by one or more than one individual on the same child**
37 **within a seventy-two hour period, it shall result in a review by the**
38 **division to determine if the calls meet the criteria and statutory**
39 **definition for a child abuse and neglect report to be accepted. The**
40 **division review shall include contacting the hotline caller or callers to**
41 **collect information to determine if the calls meet the criteria for**
42 **harassment.**

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

51 **[5.] 6.** The local office of the division shall cause an investigation or
52 family assessment and services approach to be initiated in accordance with the
53 protocols established in subsection 2 of this section, except in cases where the sole
54 basis for the report is educational neglect. If the report indicates that
55 educational neglect is the only complaint and there is no suspicion of other
56 neglect or abuse, the investigation shall be initiated within seventy-two hours of

57 receipt of the report. If the report indicates the child is in danger of serious
58 physical harm or threat to life, an investigation shall include direct observation
59 of the subject child within twenty-four hours of the receipt of the report. Local
60 law enforcement shall take all necessary steps to facilitate such direct
61 observation. **Callers to the child abuse and neglect hotline shall be**
62 **instructed by the division's hotline to call 911 in instances where the**
63 **child may be in immediate danger.** If the parents of the child are not the
64 alleged abusers, a parent of the child must be notified prior to the child being
65 interviewed by the division. **No person responding to a child abuse and**
66 **neglect investigation shall call prior to a home visit or leave any**
67 **documentation of any attempted visit, such as business cards,**
68 **pamphlets, or other similar identifying information if:**

69 (1) (a) **No person is present at the time of the home visit; and**

70 (b) **The alleged perpetrator resides in the home or the physical**
71 **safety of the child may be compromised if the alleged perpetrator**
72 **becomes aware of the attempted visit;**

73 (2) **The alleged perpetrator will be alerted regarding the**
74 **attempted visit; or**

75 (3) **The family has a history of domestic violence or fleeing the**
76 **community.**

77 **If the alleged perpetrator is present during a visit by the person**
78 **responding to or investigating the report, such person shall provide**
79 **written material to the alleged perpetrator informing him or her of his**
80 **or her rights regarding such visit, including but not limited to the right**
81 **to contact an attorney. The alleged perpetrator shall be given**
82 **reasonable amount of time to read such written material or have such**
83 **material read to him or her by the case worker before the visit**
84 **commences, but in no event shall such time exceed five minutes; except**
85 **that, such requirement to provide written material and reasonable time**
86 **to read such material shall not apply in cases where the child faces an**
87 **immediate threat or danger, or the person responding to or**
88 **investigating the report is or feels threatened or in danger of physical**
89 **harm.** If the abuse is alleged to have occurred in a school or child-care facility
90 the division shall not meet with the child in any school building or child-care
91 facility building where abuse of such child is alleged to have occurred. When the
92 child is reported absent from the residence, the location and the well-being of the
93 child shall be verified. For purposes of this subsection, child-care facility shall

94 have the same meaning as such term is defined in section 210.201.

95 [6.] 7. The director of the division shall name at least one chief
96 investigator for each local division office, who shall direct the division response
97 on any case involving a second or subsequent incident regarding the same subject
98 child or perpetrator. The duties of a chief investigator shall include verification
99 of direct observation of the subject child by the division and shall ensure
100 information regarding the status of an investigation is provided to the public
101 school district liaison. The public school district liaison shall develop protocol in
102 conjunction with the chief investigator to ensure information regarding an
103 investigation is shared with appropriate school personnel. The superintendent
104 of each school district shall designate a specific person or persons to act as the
105 public school district liaison. Should the subject child attend a nonpublic school
106 the chief investigator shall notify the school principal of the investigation. Upon
107 notification of an investigation, all information received by the public school
108 district liaison or the school shall be subject to the provisions of the federal
109 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
110 and federal rule 34 C.F.R., Part 99.

111 [7.] 8. The investigation shall include but not be limited to the nature,
112 extent, and cause of the abuse or neglect; the identity and age of the person
113 responsible for the abuse or neglect; the names and conditions of other children
114 in the home, if any; the home environment and the relationship of the subject
115 child to the parents or other persons responsible for the child's care; any
116 indication of incidents of physical violence against any other household or family
117 member; and other pertinent data.

118 [8.] 9. When a report has been made by a person required to report under
119 section 210.115, the division shall contact the person who made such report
120 within forty-eight hours of the receipt of the report in order to ensure that full
121 information has been received and to obtain any additional information or
122 medical records, or both, that may be pertinent.

123 [9.] 10. Upon completion of the investigation, if the division suspects that
124 the report was made maliciously or for the purpose of harassment, the division
125 shall refer the report and any evidence of malice or harassment to the local
126 prosecuting or circuit attorney.

127 [10.] 11. Multidisciplinary teams shall be used whenever conducting the
128 investigation as determined by the division in conjunction with local law
129 enforcement. Multidisciplinary teams shall be used in providing protective or

130 preventive social services, including the services of law enforcement, a liaison of
131 the local public school, the juvenile officer, the juvenile court, and other agencies,
132 both public and private.

133 [11.] 12. For all family support team meetings involving an alleged
134 victim of child abuse or neglect, the parents, legal counsel for the parents, foster
135 parents, the legal guardian or custodian of the child, the guardian ad litem for
136 the child, and the volunteer advocate for the child shall be provided notice and
137 be permitted to attend all such meetings. Family members, other than alleged
138 perpetrators, or other community informal or formal service providers that
139 provide significant support to the child and other individuals may also be invited
140 at the discretion of the parents of the child. In addition, the parents, the legal
141 counsel for the parents, the legal guardian or custodian and the foster parents
142 may request that other individuals, other than alleged perpetrators, be permitted
143 to attend such team meetings. Once a person is provided notice of or attends
144 such team meetings, the division or the convenor of the meeting shall provide
145 such persons with notice of all such subsequent meetings involving the
146 child. Families may determine whether individuals invited at their discretion
147 shall continue to be invited.

148 [12.] 13. If the appropriate local division personnel determine after an
149 investigation has begun that completing an investigation is not appropriate, the
150 division shall conduct a family assessment and services approach. The division
151 shall provide written notification to local law enforcement prior to terminating
152 any investigative process. The reason for the termination of the investigative
153 process shall be documented in the record of the division and the written
154 notification submitted to local law enforcement. Such notification shall not
155 preclude nor prevent any investigation by law enforcement.

156 [13.] 14. If the appropriate local division personnel determines to use a
157 family assessment and services approach, the division shall:

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

161 (2) Provide services which are voluntary and time-limited unless it is
162 determined by the division based on the assessment of risk that there will be a
163 high risk of abuse or neglect if the family refuses to accept the services. The
164 division shall identify services for families where it is determined that the child
165 is at high risk of future abuse or neglect. The division shall thoroughly document

166 in the record its attempt to provide voluntary services and the reasons these
167 services are important to reduce the risk of future abuse or neglect to the child.
168 If the family continues to refuse voluntary services or the child needs to be
169 protected, the division may commence an investigation;

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

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

178 [14.] 15. Within thirty days of an oral report of abuse or neglect, the local
179 office shall update the information in the information system. The information
180 system shall contain, at a minimum, the determination made by the division as
181 a result of the investigation, identifying information on the subjects of the report,
182 those responsible for the care of the subject child and other relevant dispositional
183 information. The division shall complete all investigations within thirty days,
184 unless good cause for the failure to complete the investigation is documented in
185 the information system. If a child involved in a pending investigation dies, the
186 investigation shall remain open until the division's investigation surrounding the
187 death is completed. If the investigation is not completed within thirty days, the
188 information system shall be updated at regular intervals and upon the completion
189 of the investigation. The information in the information system shall be updated
190 to reflect any subsequent findings, including any changes to the findings based
191 on an administrative or judicial hearing on the matter.

192 [15.] 16. A person required to report under section 210.115 to the
193 division and any person making a report of child abuse or neglect made to the
194 division which is not made anonymously shall be informed by the division of his
195 or her right to obtain information concerning the disposition of his or her
196 report. Such person shall receive, from the local office, if requested, information
197 on the general disposition of his or her report. Such person may receive, if
198 requested, findings and information concerning the case. Such release of
199 information shall be at the discretion of the director based upon a review of the
200 reporter's ability to assist in protecting the child or the potential harm to the
201 child or other children within the family. The local office shall respond to the

202 request within forty-five days. The findings shall be made available to the
203 reporter within five days of the outcome of the investigation. If the report is
204 determined to be unsubstantiated, the reporter may request that the report be
205 referred by the division to the office of child advocate for children's protection and
206 services established in sections 37.700 to 37.730. Upon request by a reporter
207 under this subsection, the division shall refer an unsubstantiated report of child
208 abuse or neglect to the office of child advocate for children's protection and
209 services.

210 [16.] 17. The division shall provide to any individual who is not satisfied
211 with the results of an investigation information about the office of child advocate
212 and the services it may provide under sections 37.700 to 37.730.

213 [17.] 18. In any judicial proceeding involving the custody of a child the
214 fact that a report may have been made pursuant to sections 210.109 to 210.183
215 shall not be admissible. However:

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

219 (2) The court may on its own motion, or shall if requested by a party to
220 the proceeding, make an inquiry not on the record with the children's division to
221 determine if such a report has been made. If a report has been made, the court
222 may stay the custody proceeding until the children's division completes its
223 investigation.

224 [18.] 19. In any judicial proceeding involving the custody of a child where
225 the court determines that the child is in need of services [pursuant to subdivision
226 (d)] **under paragraph (d) of subdivision (1)** of subsection 1 of section 211.031
227 and has taken jurisdiction, the child's parent, guardian or custodian shall not be
228 entered into the registry.

229 [19.] 20. The children's division is hereby granted the authority to
230 promulgate rules and regulations pursuant to the provisions of section 207.021
231 and chapter 536 to carry out the provisions of sections 210.109 to 210.183.

232 [20.] 21. Any rule or portion of a rule, as that term is defined in section
233 536.010, that is created under the authority delegated in this section shall
234 become effective only if it complies with and is subject to all of the provisions of
235 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
236 nonseverable and if any of the powers vested with the general assembly pursuant
237 to chapter 536 to review, to delay the effective date or to disapprove and annul

238 a rule are subsequently held unconstitutional, then the grant of rulemaking
239 authority and any rule proposed or adopted after August 28, 2000, shall be
240 invalid and void.

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Unofficial

Bill

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