

HOUSE BILL NO. 2027

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WILSON.

5749H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.127, 211.032, and 211.183, RSMo, and to enact in lieu thereof three new sections relating to parental search efforts by the children's division.

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

Section A. Sections 210.127, 211.032, and 211.183, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 210.127, 211.032, and 211.183, to read as follows:

210.127. 1. If the location or identity of the biological parent or parents of a child in the custody of the division is unknown, the children's division shall utilize all reasonable and effective means available to conduct a diligent search for the biological parent or parents of such child **within the first sixty days of a child being placed in the custody of the division under subdivision (17) of subsection 1 of section 207.020. After sixty days, the division shall be excused from further search efforts if the court finds that the division has utilized all reasonable and effective means available to conduct a diligent search and has been unable to identify or locate the biological parent or parents.**

2. For purposes of this section, "diligent search" means the efforts of the division, or an entity under contract with the division, to locate a biological parent whose identity or location is unknown, initiated as soon as the division is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the ~~[court excuses further search]~~ **division is excused from further search efforts under subsection 1 of this section, whichever is earlier.**

3. For purposes of this section, "reasonable and effective means available" includes, but is not limited to, checking the child's birth certificate; checking the putative father

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 **registry; asking a known biological parent of the child and any known relatives within the**
18 **third degree of consanguinity to identify the putative father or putative fathers; attempting**
19 **to contact each putative father by mail, telephone, or electronic means; and asking each**
20 **putative father to voluntarily participate in a paternity test.**

211.032. 1. Except as otherwise provided in a circuit participating in a pilot project
2 established by the Missouri supreme court, when a child or person seventeen years of age,
3 alleged to be in need of care and treatment pursuant to subdivision (1) of subsection 1 of section
4 211.031, is taken into custody, the juvenile or family court shall notify the parties of the right to
5 have a protective custody hearing. Such notification shall be in writing.

6 2. Upon request from any party, the court shall hold a protective custody hearing. Such
7 hearing shall be held within three days of the request for a hearing, excluding Saturdays, Sundays
8 and legal holidays. For circuits participating in a pilot project established by the Missouri
9 supreme court, the parties shall be notified at the status conference of their right to request a
10 protective custody hearing.

11 3. No later than February 1, 2005, the Missouri supreme court shall require a mandatory
12 court proceeding to be held within three days, excluding Saturdays, Sundays, and legal holidays,
13 in all cases under subdivision (1) of subsection 1 of section 211.031. The Missouri supreme
14 court shall promulgate rules for the implementation of such mandatory court proceedings and
15 may consider recommendations from any pilot projects established by the Missouri supreme
16 court regarding such proceedings. Nothing in this subsection shall prevent the Missouri supreme
17 court from expanding pilot projects prior to the implementation of this subsection.

18 4. The court shall hold an adjudication hearing no later than sixty days after the child has
19 been taken into custody. The court shall notify the parties in writing of the specific date, time,
20 and place of such hearing. If at such hearing the court determines that sufficient cause exists for
21 the child to remain in the custody of the state, the court shall conduct a dispositional hearing no
22 later than ninety days after the child has been taken into custody and shall conduct review
23 hearings regarding the reunification efforts made by the division every ninety to one hundred
24 twenty days for the first year the child is in the custody of the division. After the first year,
25 review hearings shall be held as necessary, but in no event less than once every six months for
26 as long as the child is in the custody of the division.

27 5. At all hearings held pursuant to this section the court may receive testimony and other
28 evidence relevant to the necessity of detaining the child out of the custody of the parents,
29 guardian or custodian.

30 6. By January 1, 2005, the supreme court shall develop rules regarding the effect of
31 untimely hearings.

32 7. If the placement of any child in the custody of the children's division will result in the
33 child attending a school other than the school the child was attending when taken into custody:

34 (1) The child's records from such school shall automatically be forwarded to the school
35 that the child is transferring to upon notification within two business days by the division; or

36 (2) Upon request of the foster family, the guardian ad litem, or the volunteer advocate
37 and whenever possible, the child shall be permitted to continue to attend the same school that
38 the child was enrolled in and attending at the time the child was taken into custody by the
39 division. The division, in consultation with the department of elementary and secondary
40 education, shall establish the necessary procedures to implement the provisions of this
41 subsection.

42 **8. In all cases filed under subsection 1 of section 211.031, the juvenile court shall**
43 **ascertain whether legal paternity of the child has been established at the earliest possible**
44 **opportunity and no later than the first hearing on or after sixty days from which a child**
45 **has been placed in the custody of the children's division under subdivision (17) of**
46 **subsection 1 of section 207.020. If paternity has not been established, the court may order**
47 **the initiation of proceedings to establish paternity under the uniform parentage act. The**
48 **court may refer a request to establish paternity administratively to the family support**
49 **division of the department of social services.**

 211.183. 1. In juvenile court proceedings regarding the removal of a child from his or
2 her home, the court's order shall include a determination of whether the children's division has
3 made reasonable efforts to prevent or eliminate the need for removal of the child and, after
4 removal, to make it possible for the child to return home. If the first contact with the family
5 occurred during an emergency in which the child could not safely remain at home even with
6 reasonable in-home services, the division shall be deemed to have made reasonable efforts to
7 prevent or eliminate the need for removal.

8 2. "Reasonable efforts" means the exercise of reasonable diligence and care by the
9 division to utilize all available services related to meeting the needs of the juvenile and the
10 family. In determining reasonable efforts to be made and in making such reasonable efforts, the
11 child's present and ongoing health and safety shall be the paramount consideration.

12 3. In support of its determination of whether reasonable efforts have been made, the
13 court shall enter findings, including a brief description of what preventive or reunification efforts
14 were made and why further efforts could or could not have prevented or shortened the separation
15 of the family. The division shall have the burden of demonstrating reasonable efforts.

16 4. The juvenile court may authorize the removal of the child even if the preventive and
17 reunification efforts of the division have not been reasonable, but further efforts could not permit
18 the child to remain at home.

19 5. Before a child may be removed from the parent, guardian, or custodian of the child
20 by order of a juvenile court, excluding commitments to the division of youth services, the court
21 shall in its orders:

22 (1) State whether removal of the child is necessary to protect the child and the reasons
23 therefor;

24 (2) Describe the services available to the family before removal of the child, including
25 in-home services;

26 (3) Describe the efforts made to provide those services relevant to the needs of the family
27 before the removal of the child;

28 (4) State why efforts made to provide family services described did not prevent removal
29 of the child; and

30 (5) State whether efforts made to prevent removal of the child were reasonable, based
31 upon the needs of the family and child.

32 6. If continuation of reasonable efforts, as described in this section, is determined by the
33 division to be inconsistent with establishing a permanent placement for the child, the division
34 shall take such steps as are deemed necessary by the division, including seeking modification of
35 any court order to modify the permanency plan for the child.

36 7. The division shall not be required to make reasonable efforts, as defined in this
37 section, but has the discretion to make reasonable efforts if a court of competent jurisdiction has
38 determined that:

39 (1) The parent has subjected the child to a severe act or recurrent acts of physical,
40 emotional or sexual abuse toward the child, including an act of incest; or

41 (2) The parent has:

42 (a) Committed murder of another child of the parent;

43 (b) Committed voluntary manslaughter of another child of the parent;

44 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
45 voluntary manslaughter; or

46 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
47 another child of the parent; ~~or~~

48 (3) The parent's parental rights to a sibling have been involuntarily terminated; **or**

49 **(4) The children's division has utilized all reasonable and effective means available**
50 **to conduct a diligent search under section 210.127 and has been unable to identify or locate**
51 **the biological parent or parents within the first sixty days of a child being placed in the**
52 **custody of the division under subdivision (17) of subsection 1 of section 207.020.**

53 8. If the court determines that reasonable efforts, as described in this section, are not
54 required to be made by the division, the court shall hold a permanency hearing within thirty days

55 after the court has made such determination. The division shall complete whatever steps are
56 necessary to finalize the permanent placement of the child.

57 9. The division may concurrently engage in reasonable efforts, as described in this
58 section, while engaging in such other measures as are deemed appropriate by the division to
59 establish a permanent placement for the child.

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