

SECOND REGULAR SESSION

HOUSE BILL NO. 2146

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE UNSICKER.

4543H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 167.019, 210.665, and 210.762, RSMo, and to enact in lieu thereof three new sections relating to children placed in foster care.

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

Section A. Sections 167.019, 210.665, and 210.762, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 167.019, 210.665, and 210.762,
3 to read as follows:

167.019. 1. **(1)** A child-placing agency, as defined under section 210.481, shall
2 promote educational stability for foster care children by considering the child's school
3 attendance area when making placement decisions. **Subject to subdivisions (2) and (3) of**
4 **this subsection**, the foster care pupil shall have the right to remain enrolled in and attend his
5 or her school of origin pending resolution of school placement disputes or to return to a
6 previously attended school in an adjacent district.

7 **(2) (a) A best interest determination to determine whether it is in the child's best**
8 **interest to remain in the child's school of origin shall be held within seventy-two hours of**
9 **the child being placed in protective custody. The best interest determination shall take**
10 **place at the family support team meeting provided under section 210.762.**

11 **(b) To the extent feasible, the child shall remain in the child's school of origin**
12 **before the family support team meeting is held and the best interest of the child is**
13 **decided.**

14 **(c) Education transportation shall not be taken into consideration during the**
15 **best interest determination meeting when determining the child's school placement.**

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 **(3) (a) The child placing agency shall, in writing, notify all parties including, but**
17 **not limited to, the guardian ad litem, the child or the child's attorney, and the parents or**
18 **the parents' attorneys of the agency's decision and reasons for the decision in the best**
19 **interest determination within three business days after making the decision.**

20 **(b) Any party may challenge the decision within three business days of receiving**
21 **the notice by using the dispute resolution process for a child welfare treatment plan. If a**
22 **parent or child is aggrieved by a treatment plan provision, the parent or child may ask**
23 **for an administrative hearing. If the parent or child is aggrieved after a hearing**
24 **decision, the parent or child may appeal to the circuit court.**

25 **(c) Disagreements shall be resolved as soon as reasonably practicable, and the**
26 **burden of proof is on the child placing agency to show that the agency's decision is in the**
27 **child's best interest. The child shall be transported to the school of origin until the three**
28 **days have passed or the disagreement is resolved. The school placement decision may be**
29 **revisited at any time while the child is in out-of-home care, if circumstances change, to**
30 **ensure the placement remains in the child's best interest.**

31 2. Each school district shall accept for credit full or partial course work satisfactorily
32 completed by a pupil while attending a public school, nonpublic school, or nonsectarian
33 school in accordance with district policies or regulations.

34 3. If a pupil completes the graduation requirements of his or her school district of
35 residence while under the jurisdiction of the juvenile court as described in chapter 211, the
36 school district of residence shall issue a diploma to the pupil.

37 4. School districts shall ensure that if a pupil in foster care is absent from school due
38 to a decision to change the placement of a pupil made by a court or child placing agency, or
39 due to a verified court appearance or related court-ordered activity, the grades and credits of
40 the pupil shall be calculated as of the date the pupil left school, and no lowering of his or her
41 grades shall occur as a result of the absence of the pupil under these circumstances.

42 5. School districts, subject to federal law, shall be authorized to permit access of pupil
43 school records to any child placing agency for the purpose of fulfilling educational case
44 management responsibilities required by the juvenile officer or by law and to assist with the
45 school transfer or placement of a pupil.

46 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
47 created under the authority delegated in this section shall become effective only if it complies
48 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
49 This section and chapter 536 are nonseverable and if any of the powers vested with the
50 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
51 disapprove and annul a rule are subsequently held unconstitutional, then the grant of

52 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid
53 and void.

210.665. 1. Except as otherwise provided in subsection 8 of this section, the court
2 and all parties to a case under chapter 211 involving a child in care shall defer to the
3 reasonable decisions of the child's designated caregiver involving the child's participation in
4 extracurricular, enrichment, cultural, and social activities.

5 2. A caregiver shall use the reasonable and prudent parent standard when making
6 decisions relating to the activity of the child.

7 3. The division or a contracted agency thereof shall designate at least one onsite
8 caregiver who has authority to apply the reasonable and prudent parent standard for each
9 child placed in its custody.

10 4. The caregiver shall consider:

11 (1) The child's age, maturity, and developmental level;

12 (2) The overall health and safety of the child;

13 (3) Potential risk factors and appropriateness of the activity;

14 (4) The best interests of the child;

15 (5) Promoting, where safe and as appropriate, normal childhood experiences; and

16 (6) Any other relevant factors based on the caregiver's knowledge of the child.

17 5. Caregivers shall receive training with regard to the reasonable and prudent parent
18 standard as required by the division. The training shall include:

19 (1) Knowledge and skills relating to the developmental stages of the cognitive,
20 emotional, physical, and behavioral capacities of a child;

21 (2) Knowledge and skills relating to applying the standard to decisions, including but
22 not limited to whether to allow the child to engage in social, extracurricular, enrichment,
23 cultural, and social activities, such as sports, field trips, and overnight activities lasting one or
24 more days; and

25 (3) Knowledge and skills relating to decisions, including but not limited to the
26 signing of permission slips and arranging of transportation for the child to and from
27 extracurricular, enrichment, and social activities.

28 6. A caregiver shall not be liable for harm caused to a child while participating in an
29 activity chosen by the caregiver, provided the caregiver acted in accordance with the
30 reasonable and prudent parent standard.

31 7. No court shall order the division or a contracted agency thereof to provide funding
32 for activities chosen by the caregiver.

33 8. A caregiver's decisions with regard to the child may be overturned by the court
34 only if, upon notice and a hearing, the court finds by clear and convincing evidence the

35 reasonable and prudent parent standard has been violated. The caregiver shall have the right
36 to receive notice, to attend the hearing, and to present evidence at the hearing.

37 **9. Nothing in this section shall be construed to permit a child's caregiver to make**
38 **educational decisions beyond the scope listed herein unless a court has otherwise**
39 **appointed the caregiver to be the educational decision maker for the child.**

40 **10. A biological or adoptive parent with a child placed in foster care remains the**
41 **child's educational decision maker unless a court has otherwise appointed an**
42 **educational decision maker for the child. The family court shall decide at the first**
43 **dispositional hearing who shall be the educational decision maker and enter an order**
44 **naming the educational decision maker. Only a parent as defined under 34 CFR 300.30**
45 **shall serve as the educational decision maker.**

210.762. 1. When a child is taken into custody by a juvenile officer or law
2 enforcement official under subdivision (1) of subsection 1 of section 211.031 and initially
3 placed with the division, the division may make a temporary placement and shall arrange for
4 a family support team meeting prior to or within twenty-four hours following the protective
5 custody hearing held under section 211.032. After a child is in the division's custody and a
6 temporary placement has been made, the division shall arrange an additional family support
7 team meeting prior to taking any action relating to the placement of such child; except that,
8 when the welfare of a child in the custody of the division requires an immediate or emergency
9 change of placement, the division may make a temporary placement and shall schedule a
10 family support team meeting within seventy-two hours. The requirement for a family support
11 team meeting shall not apply when the parent has consented in writing to the termination of
12 his or her parental rights in conjunction with a placement in a licensed child-placing agency
13 under subsection 6 of section 453.010.

14 2. The parents, the legal counsel for the parents, the foster parents, the legal guardian
15 or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and
16 any designee of the parent that has written authorization shall be notified and invited to
17 participate in all family support team meetings **and any meeting in which the best interests**
18 **of the child are being determined.** The family support team meeting may include such
19 other persons whose attendance at the meeting may assist the team in making appropriate
20 decisions in the best interests of the child. If the division finds that it is not in the best interest
21 of a child to be placed with relatives, the division shall make specific findings in the division's
22 report detailing the reasons why the best interests of the child necessitate placement of the
23 child with persons other than relatives.

24 3. The division shall use the form created in subsection 2 of section 210.147 to be
25 signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming

26 that all involved parties are aware of the team's decision regarding the custody and placement
27 of the child. Any dissenting views must be recorded and attested to on such form.

28 4. The case manager shall be responsible for including such form with the case
29 records of the child.

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