

SENATE BILL NO. 458

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

1528S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 210.135, 210.140, 210.147, 210.762, and 211.081, RSMo, and to enact in lieu thereof six new sections relating to child protection.

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

Section A. Sections 210.135, 210.140, 210.147, 210.762,
2 and 211.081, RSMo, are repealed and six new sections enacted in
3 lieu thereof, to be known as sections 210.135, 210.140, 210.147,
4 210.715, 210.762, and 211.081, to read as follows:

210.135. 1. Any person, official, **employee of the**
2 **department of social services**, or institution complying with
3 the provisions of sections [210.110] **210.109** to 210.165 in
4 the making of a report, the taking of color photographs, or
5 the making of radiologic examinations pursuant to sections
6 [210.110] **210.109** to 210.165, or both such taking of color
7 photographs and making of radiologic examinations, or the
8 removal or retaining a child pursuant to sections [210.110]
9 **210.109** to 210.165 **and chapter 211**, or in cooperating with
10 the division, **or cooperating with a qualified individual**
11 **pursuant to section 210.715**, or any other law enforcement
12 agency, juvenile office, court, **state agency**, or child-
13 protective service agency of this or any other state, in any
14 of the activities pursuant to sections [210.110] **210.109** to
15 210.165 **and chapter 211**, or any other allegation of child
16 abuse, neglect or assault, pursuant to sections 568.045 to
17 568.060, shall have immunity from any liability, civil or

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

18 criminal, that otherwise might result by reason of such
19 actions. Provided, however, any person, official or
20 institution intentionally filing a false report, acting in
21 bad faith, or with ill intent, shall not have immunity from
22 any liability, civil or criminal. Any such person,
23 official, or institution shall have the same immunity with
24 respect to participation in any judicial proceeding
25 resulting from the report.

26 2. An employee, including a contracted employee, of a
27 state-funded child assessment center, as provided for in
28 subsection 2 of section 210.001, shall be immune from any
29 civil liability that arises from the employee's
30 participation in the investigation process and services by
31 the child assessment center, unless such person acted in bad
32 faith. This subsection shall not displace or limit any
33 other immunity provided by law.

34 3. Any person, who is not a school district employee,
35 who makes a report to any employee of the school district of
36 child abuse by a school employee shall have immunity from
37 any liability, civil or criminal, that otherwise might
38 result because of such report. Provided, however, that any
39 such person who makes a false report, knowing that the
40 report is false, or who acts in bad faith or with ill intent
41 in making such report shall not have immunity from any
42 liability, civil or criminal. Any such person shall have
43 the same immunity with respect to participation in any
44 judicial proceeding resulting from the report.

45 4. In a case involving the death or serious injury of
46 a child after a report has been made under sections 210.109
47 to 210.165, the division shall conduct a preliminary
48 evaluation in order to determine whether a review of the
49 ability of the circuit manager or case worker or workers to

50 perform their duties competently is necessary. The
51 preliminary evaluation shall examine:

52 (1) The hotline worker or workers who took any reports
53 related to such case;

54 (2) The division case worker or workers assigned to
55 the investigation of such report; and

56 (3) The circuit manager assigned to the county where
57 the report was investigated.

58 Any preliminary evaluation shall be completed no later than
59 three days after the child's death. If the division
60 determines a review and assessment is necessary, it shall be
61 completed no later than three days after the child's death.

210.140. Any legally recognized privileged
2 communication, except that between attorney and client or
3 involving communications made to a minister or clergyperson,
4 shall not apply to situations involving known or suspected
5 child abuse or neglect and shall not constitute grounds for
6 failure to report as required or permitted by sections
7 **[210.110] 210.109** to 210.165, to cooperate with the division
8 in any of its activities pursuant to **[sections 210.110 to**
9 **210.165] this chapter, chapter 211, and chapter 453,** or to
10 give or accept evidence in any judicial proceeding relating
11 to child abuse or neglect.

210.147. **[1. Except as otherwise provided by law,]**
2 All information provided at any family support team meeting
3 **[held in relation to the removal of a child from the child's**
4 **home]** is confidential; except that:

5 (1) Any parent or party may waive confidentiality for
6 himself or herself to the extent permitted by law; and

7 (2) Any parent of the child shall have an absolute
8 right to video and/or audio tape such team meetings to the
9 extent permitted by law; and

10 (3) No parent or party shall be required to sign a
11 confidentiality agreement before testifying or providing
12 information at such team meetings. Any person, other than a
13 parent or party, who does not agree to maintain
14 confidentiality of the information provided at such team
15 meetings may be excluded from all or any portion of such
16 team meetings during which such person is not testifying or
17 providing information.

18 [2. The division shall be responsible for developing a
19 form to be signed at the conclusion of any team meeting held
20 in relation to a child removed from the home and placed in
21 the custody of the state that reflects the core commitments
22 made by the children's division or the convenor of the team
23 meeting and the parents of the child or any other party.
24 The content of the form shall be consistent with service
25 agreements or case plans required by statute, but not the
26 specific address of the child; whether the child shall
27 remain in current placement or be moved to a new placement;
28 visitation schedule for the child's family; and any
29 additional core commitments. Any dissenting views shall be
30 recorded and attested to on such form. The parents and any
31 other party shall be provided with a copy of the signed
32 document.]

**210.715. 1. As used in this section, the following
2 terms shall mean:**

3 (1) "Child", any person in the legal custody of the
4 children's division and over whom the court has maintained
5 jurisdiction;

6 (2) "Qualified individual", a trained professional or
7 licensed clinician who is not an employee of the children's
8 division and who is not connected to, or affiliated with,
9 any placement setting in which children are placed by the
10 children's division. The children's division shall
11 establish the qualifications of the qualified individual by
12 regulation;

13 (3) "Qualified residential treatment program" or
14 "QRTP", a program that has met all program requirements for
15 designation as a QRTP, as determined by the children's
16 division;

17 (4) "Residential setting", a congregate setting that
18 provides twenty-four hour supervision to a child for the
19 purposes of rehabilitative treatment related to emotional
20 and psychiatric needs, learning difficulties, behavioral
21 disorders, trauma histories, or developmental challenges
22 that require a higher level of supervision and treatment
23 than is available in a foster home setting. This setting
24 shall include:

25 (a) A qualified residential treatment program (QRTP);

26 (b) A psychiatric residential treatment facility
27 (PRTF); or

28 (c) A residential care facility licensed by the
29 children's division to provide residential treatment or
30 intensive residential services.

31 Residential settings shall not include emergency shelters,
32 maternity homes for pregnant or parenting youth, contracted
33 transitional living settings, and placements licensed or
34 certified by the division of developmental disabilities
35 within the department of mental health.

36 2. If a child is placed in a residential setting, the
37 children's division shall arrange for a qualified individual
38 to complete an assessment of the child within thirty days of
39 the start of each placement in a residential setting. The
40 assessment shall be in writing and shall:

41 (1) Assess the strengths and needs of the child using
42 an age-appropriate, trauma-informed, evidence-based, and
43 validated tool approved by the children's division;

44 (2) Assess whether the needs of the child can be met
45 through placement with family members or in a foster home;

46 (3) Explain why the child's placement in a residential
47 setting will be the most effective and appropriate level of
48 care in the least restrictive environment, if the needs of
49 the child cannot be met with family members or in a foster
50 home;

51 (4) Describe how that placement is consistent with the
52 short-term and long-term goals for the child, as specified
53 in the child's permanency plan; and

54 (5) Develop a list of child-specific short-term and
55 long-term mental and behavioral health goals.

56 3. The children's division shall assemble a family
57 support team for the child in accordance with the
58 requirements of section 210.762. The qualified individual
59 conducting the assessment shall work in conjunction with the
60 family of, and family support team for, the child while
61 conducting and making the assessment.

62 4. Notwithstanding any other provision of law to the
63 contrary, the qualified individual shall have unlimited
64 access to any and all records and information pertaining to
65 the child that the qualified individual determines are
66 necessary to complete the assessment, including, but not
67 limited to, medical records, therapy records, psychological

68 and psychiatric evaluations, educational records, law
69 enforcement records, and placement history, including
70 progress reports from such placements.

71 5. The qualified individual shall provide the written
72 assessment to the children's division. The children's
73 division shall provide a copy of the assessment to the
74 parties to the juvenile proceeding, the members of the
75 family support team, and the court.

76 6. Within sixty days of the start of each placement in
77 a QRTP, the court shall assess the appropriateness for the
78 child remaining in the QRTP. A copy of the assessment, as
79 redacted, shall be admitted into evidence by the court
80 without further foundation. The court shall make specific
81 written findings of fact on the record and:

82 (1) Consider the assessment, determination, and
83 documentation made by the qualified individual conducting
84 the assessment;

85 (2) Determine whether the needs of the child can be
86 met through placement in a foster home or, if not, whether
87 placement of the child in the QRTP provides the most
88 effective and appropriate level of care for the child in the
89 least restrictive environment;

90 (3) Determine whether that placement is consistent
91 with the short-term and long-term goals for the child, as
92 specified in the permanency plan for the child; and

93 (4) Approve or disapprove the placement.

94 7. The court shall reassess the appropriateness for
95 the child remaining in a QRTP at every hearing subsequent to
96 the child's placement in the QRTP and make written findings
97 of fact as required in subsection 6 of this section until
98 the child is no longer placed in the QRTP.

99 8. The children's division may promulgate rules,
100 including emergency rules, to implement the provisions of
101 this section. Any rule or portion of a rule, as that term
102 is defined in section 536.010, that is created under the
103 authority delegated in this section shall become effective
104 only if it complies with and is subject to all of the
105 provisions of chapter 536 and, if applicable, section
106 536.028. This section and chapter 536 are nonseverable and
107 if any of the powers vested with the general assembly
108 pursuant to chapter 536 to review, to delay the effective
109 date, or to disapprove and annul a rule are subsequently
110 held unconstitutional, then the grant of rulemaking
111 authority and any rule proposed or adopted after August 28,
112 2023, shall be invalid and void.

210.762. 1. When a child is taken into custody by a
2 juvenile officer, **physician**, or law enforcement official
3 **[under]** pursuant to section 210.125 and comes under the
4 **jurisdiction of the court pursuant to** subdivision (1) and
5 **(2)** of subsection 1 of section 211.031 and **[initially]**
6 placed with the division, the division may make a temporary
7 placement and shall arrange for a family support team
8 meeting prior to or within twenty-four hours following the
9 protective custody hearing held under section 211.032. After
10 a child is in the division's custody **[and a temporary**
11 **placement has been made]**, the division shall arrange an
12 additional family support team meeting prior to taking any
13 action relating to the placement of such child; except that,
14 when the welfare of a child in the custody of the division
15 requires an immediate or emergency change of placement, the
16 division may make a temporary placement and shall schedule a
17 family support team meeting within seventy-two hours. The
18 requirement for a family support team meeting shall not

19 apply when the parent has consented in writing to the
20 termination of his or her parental rights in conjunction
21 with a placement in a licensed child-placing agency under
22 subsection 6 of section 453.010.

23 2. The parents, the legal counsel for the parents, the
24 foster parents, the legal guardian or custodian of the
25 child, the guardian ad litem for the child, and the
26 volunteer advocate, and any designee of the parent that has
27 written authorization shall be notified and invited to
28 participate in all family support team meetings. The family
29 support team meeting may include such other persons whose
30 attendance at the meeting may assist the team in making
31 appropriate decisions in the best interests of the child,
32 **including biological family members and relatives, as**
33 **appropriate, as well as professionals who are a resource to**
34 **the family of the child, such as teachers, medical or mental**
35 **health providers who have treated the child, or clergy. In**
36 **the case of a child who is age fourteen or older, the family**
37 **support team shall include the members selected by the**
38 **child. The division may exclude an individual from a family**
39 **support team meeting or make alternative arrangements for an**
40 **individual to express his or her views if an individual**
41 **becomes disruptive to the meeting.**

42 3. If the division finds that it is not in the best
43 interest of a child to be placed with relatives, the
44 division shall make specific findings in the division's
45 report detailing the reasons why the best interests of the
46 child necessitate placement of the child with persons other
47 than relatives.

48 [3. The division shall use the form created in
49 subsection 2 of section 210.147 to be signed upon the
50 conclusion of the meeting pursuant to subsection 1 of this

51 section confirming that all involved parties are aware of
52 the team's decision regarding the custody and placement of
53 the child. Any dissenting views must be recorded and
54 attested to on such form.]

55 **4. The division shall be responsible for developing a**
56 **form to be signed at the conclusion of any team meeting held**
57 **in relation to a child removed from the home and placed in**
58 **the custody of the state that reflects the core commitments**
59 **made by the children's division or the convenor of the team**
60 **meeting and the parents of the child or any other party.**
61 **The content of the form shall be consistent with service**
62 **agreements or case plans required by statute, but not the**
63 **specific address of the child; whether the child shall**
64 **remain in current placement or be moved to a new placement;**
65 **visitation schedule for the child's family; and any**
66 **additional core commitments. Any dissenting views shall be**
67 **recorded and attested to on such form. The parents and any**
68 **other party shall be provided with a copy of the signed**
69 **document.**

70 [4.] 5. The [case manager] division shall be
71 responsible for including such form with the case records of
72 the child.

211.081. 1. Whenever any person informs the juvenile
2 officer in writing that a child appears to be within the
3 purview of applicable provisions of section 211.031, the
4 juvenile officer shall make or cause to be made a
5 preliminary inquiry to determine the facts and to determine
6 whether or not the interests of the public or of the child
7 require that further action be taken. On the basis of this
8 inquiry, the juvenile officer may make such informal
9 adjustment as is practicable without a petition or file a
10 petition. Any other provision of this chapter to the

11 contrary notwithstanding, the juvenile court shall not make
12 any order for disposition of a child which would place or
13 commit the child to any location outside the state of
14 Missouri without first receiving the approval of the
15 children's division.

16 2. Placement in any [institutional] residential
17 setting, **as defined in section 210.715**, shall represent the
18 least restrictive appropriate placement for the child and
19 shall [be recommended based upon a psychological or
20 psychiatric evaluation or both] **meet all requirements set**
21 **forth in section 210.715**. Prior to entering any order for
22 disposition of a child which would order residential
23 treatment or other services inside the state of Missouri,
24 the juvenile court shall enter findings which include the
25 recommendation of the psychological or psychiatric
26 evaluation or both; and certification from the division
27 director or designee as to whether a provider or funds or
28 both are available, including a projection of their future
29 availability. If the children's division indicates that
30 funding is not available, the division shall recommend and
31 make available for placement by the court an alternative
32 placement for the child. The division shall have the burden
33 of demonstrating that they have exercised due diligence in
34 utilizing all available services to carry out the
35 recommendation of the evaluation team and serve the best
36 interest of the child. The judge shall not order placement
37 or an alternative placement with a specific provider but may
38 reasonably designate the scope and type of the services
39 which shall be provided by the department to the child. **For**
40 **purposes of this subsection, the word "child" shall have the**
41 **same meaning as in section 210.715.**

42 3. Obligations of the state incurred under the
43 provisions of section 211.181 shall not exceed, in any
44 fiscal year, the amount appropriated for this purpose.

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