

SECOND REGULAR SESSION

SENATE BILL NO. 715

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5195S.011

AN ACT

To repeal sections 210.498, 453.121, and 610.021, RSMo, and to enact in lieu thereof three new sections relating to records involving the care and custody of children.

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

Section A. Sections 210.498, 453.121, and 610.021, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 210.498,
3 453.121, and 610.021, to read as follows:

210.498. **1.** Any parent or legal guardian **of a child in foster care** may
2 have access to investigation records kept by the division regarding [a decision for]
3 the denial [of or the], suspension, or revocation of [a] **the** license [to a specific
4 person to operate or maintain] **of** a foster home [if such specific person does or
5 may provide services or care to a child of the person requesting the information]
6 **in which the child was placed.** The request for the release of such
7 information shall be made to the division director or the director's designee, in
8 writing, by the parent or legal guardian of the child and shall be accompanied
9 [with] **by** a signed and notarized release form from the person who does or may
10 provide care or services to the child. The notarized release form shall include the
11 full name, date of birth and Social Security number of the person who does or
12 may provide care or services to a child. The response shall include only
13 information pertaining to the nature and disposition of any denial, suspension,
14 or revocation of a license to operate a foster home. This response shall not
15 include any identifying information regarding any person other than the person
16 to whom a foster home license was denied, suspended, or revoked. **The**
17 **response shall not include financial, medical, or other personal**

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

18 **information relating to the foster home provider and the foster home**
19 **provider's family unless the division determines that the information**
20 **is directly relevant to the disposition of the investigation and**
21 **report.** The response shall be given within ten working days of the time it was
22 received by the division.

23 **2. The division may disclose or utilize information and records**
24 **relating to foster homes in its discretion and as needed for the**
25 **administration of the foster care program including, but not limited to,**
26 **the licensure of foster homes and for the protection, care, and safety of**
27 **children who are or who may be placed in foster care.**

28 **3. The director of the department of social services may**
29 **authorize the disclosure of information and findings pertaining to**
30 **foster homes in cases of child fatalities or near-fatalities as provided**
31 **for in subsection 5 of section 210.150.**

32 **4. The division may disclose information and records pertaining**
33 **to foster homes to juvenile officers, courts, the office of child advocate,**
34 **guardians ad litem, law enforcement agencies, child welfare agencies,**
35 **child placement agencies, prosecuting attorneys, and other local, state,**
36 **and federal government agencies that have a need for the information**
37 **to conduct their duties under law.**

38 **5. Information and records pertaining to the licensure of foster**
39 **homes and the care and treatment of children in foster homes shall be**
40 **considered closed records under chapter 610 and may only be disclosed**
41 **and utilized under this section.**

453.121. 1. As used in this section, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Adopted adult", any adopted person who is eighteen years of age or
4 over;

5 (2) "Adopted child", any adopted person who is less than eighteen years
6 of age;

7 (3) "Adult sibling", any brother or sister of the whole or half blood who is
8 eighteen years of age or over;

9 (4) "Biological parent", the natural and biological mother or father of the
10 adopted child;

11 (5) "Identifying information", information which includes the name, date
12 of birth, place of birth and last known address of the biological parent;

13 (6) "Lineal descendant", a legal descendant of a person as defined in
14 section 472.010;

15 (7) "Nonidentifying information", information concerning the physical
16 description, nationality, religious background and medical history of the biological
17 parent or sibling.

18 2. All papers, records, and information pertaining to an adoption whether
19 part of any permanent record or file may be disclosed only in accordance with this
20 section.

21 3. Nonidentifying information, if known, concerning undisclosed biological
22 parents or siblings shall be furnished by the child-placing agency or the juvenile
23 court to the adoptive parents, legal guardians, adopted adult or the adopted
24 adult's lineal descendants if the adopted adult is deceased, upon written request
25 therefor.

26 4. An adopted adult, or the adopted adult's lineal descendants if the
27 adopted adult is deceased, may make a written request to the circuit court having
28 original jurisdiction of such adoption to secure and disclose information
29 identifying the adopted adult's biological parents. If the biological parents have
30 consented to the release of identifying information under subsection 8 of this
31 section, the court shall disclose such identifying information to the adopted adult
32 or the adopted adult's lineal descendants if the adopted adult is deceased. If the
33 biological parents have not consented to the release of identifying information
34 under subsection 8 of this section, the court shall, within ten days of receipt of
35 the request, notify in writing the child-placing agency or juvenile court personnel
36 having access to the information requested of the request by the adopted adult
37 or the adopted adult's lineal descendants.

38 5. Within three months after receiving notice of the request of the adopted
39 adult, or the adopted adult's lineal descendants, the child-placing agency or the
40 juvenile court personnel shall make reasonable efforts to notify the biological
41 parents of the request of the adopted adult or the adopted adult's lineal
42 descendants. The child-placing agency or juvenile court personnel may charge
43 actual costs to the adopted adult or the adopted adult's lineal descendants for the
44 cost of making such search. All communications under this subsection are
45 confidential. For purposes of this subsection, "notify" means a personal and
46 confidential contact with the biological parent of the adopted adult, which initial
47 contact shall be made by an employee of the child-placing agency which processed
48 the adoption, juvenile court personnel or some other licensed child-placing agency

49 designated by the child-placing agency or juvenile court. Nothing in this section
50 shall be construed to permit the disclosure of communications privileged pursuant
51 to section 491.060. At the end of three months, the child-placing agency or
52 juvenile court personnel shall file a report with the court stating that each
53 biological parent that was located was given the following information:

54 (1) The nature of the identifying information to which the agency has
55 access;

56 (2) The nature of any nonidentifying information requested;

57 (3) The date of the request of the adopted adult or the adopted adult's
58 lineal descendants;

59 (4) The right of the biological parent to file an affidavit with the court
60 stating that the identifying information should be disclosed;

61 (5) The effect of a failure of the biological parent to file an affidavit
62 stating that the identifying information should be disclosed.

63 6. If the child-placing agency or juvenile court personnel reports to the
64 court that it has been unable to notify the biological parent within three months,
65 the identifying information shall not be disclosed to the adopted adult or the
66 adopted adult's lineal descendants. Additional requests for the same or
67 substantially the same information may not be made to the court within one year
68 from the end of the three-month period during which the attempted notification
69 was made, unless good cause is shown and leave of court is granted.

70 7. If, within three months, the child-placing agency or juvenile court
71 personnel reports to the court that it has notified the biological parent pursuant
72 to subsection 5 of this section, the court shall receive the identifying information
73 from the child-placing agency. If an affidavit duly executed by a biological parent
74 authorizing the release of information is filed with the court or if a biological
75 parent is found to be deceased, the court shall disclose the identifying information
76 as to that biological parent to the adopted adult or the adopted adult's lineal
77 descendants if the adopted adult is deceased, provided that the other biological
78 parent either:

79 (1) Is unknown;

80 (2) Is known but cannot be found and notified pursuant to [section 5 of
81 this act] **subsection 5 of this section**;

82 (3) Is deceased; or

83 (4) Has filed with the court an affidavit authorizing release of identifying
84 information.

85 If the biological parent fails or refuses to file an affidavit with the court
86 authorizing the release of identifying information, then the identifying
87 information shall not be released to the adopted adult. No additional request for
88 the same or substantially the same information may be made within three years
89 of the time the biological parent fails or refuses to file an affidavit authorizing the
90 release of identifying information.

91 8. Any adopted adult whose adoption was finalized in this state or whose
92 biological parents had their parental rights terminated in this state may request
93 the court to secure and disclose identifying information concerning an adult
94 sibling. Identifying information pertaining exclusively to the adult sibling,
95 whether part of the permanent record of a file in the court or in an agency, shall
96 be released only upon consent of that adult sibling.

97 9. The central office of the children's division within the department of
98 social services shall maintain a registry by which biological parents, adult
99 siblings, and adoptive adults may indicate their desire to be contacted by each
100 other. The division may request such identification for the registry as a party
101 may possess to assure positive identifications. At the time of registry, a biological
102 parent or adult sibling may consent in writing to the release of identifying
103 information to an adopted adult. If such a consent has not been executed and the
104 division believes that a match has occurred on the registry between biological
105 parents or adult siblings and an adopted adult, an employee of the division shall
106 make the confidential contact provided in subsection 5 of this section with the
107 biological parents or adult siblings and with the adopted adult. If the division
108 believes that a match has occurred on the registry between one biological parent
109 or adult sibling and an adopted adult, an employee of the division shall make the
110 confidential contact provided by subsection 5 of this section with the biological
111 parent or adult sibling. The division shall then attempt to make such
112 confidential contact with the other biological parent, and shall proceed thereafter
113 to make such confidential contact with the adopted adult only if the division
114 determines that the other biological parent meets one of the conditions specified
115 in subsection 7 of this section. The biological parent, adult sibling, or adopted
116 adult may refuse to go forward with any further contact between the parties when
117 contacted by the division.

118 10. The provisions of this section, except as provided in subsection 5 of
119 this section governing the release of identifying and nonidentifying adoptive
120 information apply to adoptions completed before and after August 13, 1986.

121 **11. All papers, records, and information known to or in the**
122 **possession of an adoptive parent or adoptive child that pertain to an**
123 **adoption, whether or not part of any permanent record or file, may be**
124 **disclosed by the adoptive parent or adoptive child. The provisions of**
125 **this subsection shall not be construed to create a right to have access**
126 **to information not otherwise allowed under this section.**

610.021. Except to the extent disclosure is otherwise required by law, a
2 public governmental body is authorized to close meetings, records and votes, to
3 the extent they relate to the following:

4 (1) Legal actions, causes of action or litigation involving a public
5 governmental body and any confidential or privileged communications between
6 a public governmental body or its representatives and its attorneys. However,
7 any minutes, vote or settlement agreement relating to legal actions, causes of
8 action or litigation involving a public governmental body or any agent or entity
9 representing its interests or acting on its behalf or with its authority, including
10 any insurance company acting on behalf of a public government body as its
11 insured, shall be made public upon final disposition of the matter voted upon or
12 upon the signing by the parties of the settlement agreement, unless, prior to final
13 disposition, the settlement agreement is ordered closed by a court after a written
14 finding that the adverse impact to a plaintiff or plaintiffs to the action clearly
15 outweighs the public policy considerations of section 610.011, however, the
16 amount of any moneys paid by, or on behalf of, the public governmental body
17 shall be disclosed; provided, however, in matters involving the exercise of the
18 power of eminent domain, the vote shall be announced or become public
19 immediately following the action on the motion to authorize institution of such
20 a legal action. Legal work product shall be considered a closed record;

21 (2) Leasing, purchase or sale of real estate by a public governmental body
22 where public knowledge of the transaction might adversely affect the legal
23 consideration therefor. However, any minutes, vote or public record approving
24 a contract relating to the leasing, purchase or sale of real estate by a public
25 governmental body shall be made public upon execution of the lease, purchase or
26 sale of the real estate;

27 (3) Hiring, firing, disciplining or promoting of particular employees by a
28 public governmental body when personal information about the employee is
29 discussed or recorded. However, any vote on a final decision, when taken by a
30 public governmental body, to hire, fire, promote or discipline an employee of a

31 public governmental body shall be made available with a record of how each
32 member voted to the public within seventy-two hours of the close of the meeting
33 where such action occurs; provided, however, that any employee so affected shall
34 be entitled to prompt notice of such decision during the seventy-two-hour period
35 before such decision is made available to the public. As used in this subdivision,
36 the term "personal information" means information relating to the performance
37 or merit of individual employees;

38 (4) The state militia or national guard or any part thereof;

39 (5) Nonjudicial mental or physical health proceedings involving
40 identifiable persons, including medical, psychiatric, psychological, or alcoholism
41 or drug dependency diagnosis or treatment;

42 (6) Scholastic probation, expulsion, or graduation of identifiable
43 individuals, including records of individual test or examination scores; however,
44 personally identifiable student records maintained by public educational
45 institutions shall be open for inspection by the parents, guardian or other
46 custodian of students under the age of eighteen years and by the parents,
47 guardian or other custodian and the student if the student is over the age of
48 eighteen years;

49 (7) Testing and examination materials, before the test or examination is
50 given or, if it is to be given again, before so given again;

51 (8) Welfare cases of identifiable individuals;

52 (9) Preparation, including any discussions or work product, on behalf of
53 a public governmental body or its representatives for negotiations with employee
54 groups;

55 (10) Software codes for electronic data processing and documentation
56 thereof;

57 (11) Specifications for competitive bidding, until either the specifications
58 are officially approved by the public governmental body or the specifications are
59 published for bid;

60 (12) Sealed bids and related documents, until the bids are opened; and
61 sealed proposals and related documents or any documents related to a negotiated
62 contract until a contract is executed, or all proposals are rejected;

63 (13) Individually identifiable personnel records, performance ratings or
64 records pertaining to employees or applicants for employment, except that this
65 exemption shall not apply to the names, positions, salaries and lengths of service
66 of officers and employees of public agencies once they are employed as such, and

67 the names of private sources donating or contributing money to the salary of a
68 chancellor or president at all public colleges and universities in the state of
69 Missouri and the amount of money contributed by the source;

70 (14) Records which are protected from disclosure by law;

71 (15) Meetings and public records relating to scientific and technological
72 innovations in which the owner has a proprietary interest;

73 (16) Records relating to municipal hotlines established for the reporting
74 of abuse and wrongdoing;

75 (17) Confidential or privileged communications between a public
76 governmental body and its auditor, including all auditor work product; however,
77 all final audit reports issued by the auditor are to be considered open records
78 pursuant to this chapter;

79 (18) Operational guidelines, policies and specific response plans
80 developed, adopted, or maintained by any public agency responsible for law
81 enforcement, public safety, first response, or public health for use in responding
82 to or preventing any critical incident which is or appears to be terrorist in nature
83 and which has the potential to endanger individual or public safety or
84 health. Financial records related to the procurement of or expenditures relating
85 to operational guidelines, policies or plans purchased with public funds shall be
86 open. When seeking to close information pursuant to this exception, the public
87 governmental body shall affirmatively state in writing that disclosure would
88 impair the public governmental body's ability to protect the security or safety of
89 persons or real property, and shall in the same writing state that the public
90 interest in nondisclosure outweighs the public interest in disclosure of the
91 records;

92 (19) Existing or proposed security systems and structural plans of real
93 property owned or leased by a public governmental body, and information that is
94 voluntarily submitted by a nonpublic entity owning or operating an infrastructure
95 to any public governmental body for use by that body to devise plans for
96 protection of that infrastructure, the public disclosure of which would threaten
97 public safety:

98 (a) Records related to the procurement of or expenditures relating to
99 security systems purchased with public funds shall be open;

100 (b) When seeking to close information pursuant to this exception, the
101 public governmental body shall affirmatively state in writing that disclosure
102 would impair the public governmental body's ability to protect the security or

103 safety of persons or real property, and shall in the same writing state that the
104 public interest in nondisclosure outweighs the public interest in disclosure of the
105 records;

106 (c) Records that are voluntarily submitted by a nonpublic entity shall be
107 reviewed by the receiving agency within ninety days of submission to determine
108 if retention of the document is necessary in furtherance of a state security
109 interest. If retention is not necessary, the documents shall be returned to the
110 nonpublic governmental body or destroyed;

111 (20) The portion of a record that identifies security systems or access
112 codes or authorization codes for security systems of real property;

113 (21) Records that identify the configuration of components or the
114 operation of a computer, computer system, computer network, or
115 telecommunications network, and would allow unauthorized access to or unlawful
116 disruption of a computer, computer system, computer network, or
117 telecommunications network of a public governmental body. This exception shall
118 not be used to limit or deny access to otherwise public records in a file, document,
119 data file or database containing public records. Records related to the
120 procurement of or expenditures relating to such computer, computer system,
121 computer network, or telecommunications network, including the amount of
122 moneys paid by, or on behalf of, a public governmental body for such computer,
123 computer system, computer network, or telecommunications network shall be
124 open;

125 (22) Credit card numbers, personal identification numbers, digital
126 certificates, physical and virtual keys, access codes or authorization codes that
127 are used to protect the security of electronic transactions between a public
128 governmental body and a person or entity doing business with a public
129 governmental body. Nothing in this section shall be deemed to close the record
130 of a person or entity using a credit card held in the name of a public
131 governmental body or any record of a transaction made by a person using a credit
132 card or other method of payment for which reimbursement is made by a public
133 governmental body; [and]

134 (23) Records submitted by an individual, corporation, or other business
135 entity to a public institution of higher education in connection with a proposal to
136 license intellectual property or perform sponsored research and which contains
137 sales projections or other business plan information the disclosure of which may
138 endanger the competitiveness of a business; **and**

139 **(24) Records relating to foster home or kinship placements of**
140 **children in foster care.**

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