

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 800

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LIBLA.

Pre-filed December 14, 2017, and ordered printed.

Read 2nd time January 17, 2018, and referred to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

Reported from the Committee February 22, 2018, with recommendation that the bill do pass.

Taken up for Perfection March 5, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

5433S.01P

AN ACT

To repeal sections 211.444 and 211.447, RSMo, and to enact in lieu thereof two new sections relating to juvenile court proceedings.

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

Section A. Sections 211.444 and 211.447, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 211.444 and 211.447, to
3 read as follows:

211.444. [1.] The juvenile court may, upon petition of the juvenile officer
2 **[or], the attorney appointed by the court as guardian ad litem,** a
3 child-placing agency licensed under sections 210.481 to 210.536 in conjunction
4 with a placement with such agency under subsection 6 of section 453.010, or [the
5 court before which] **a private attorney filing** a petition for adoption [has been
6 filed pursuant to] **under** the provisions of chapter 453, terminate the rights of
7 a parent **or receive the specific consent to adoption or waiver of consent**
8 **to adoption executed by a parent or a named father** to a child, **including**
9 **a child who is a ward of the court,** if the court finds that such termination
10 **or consent to specific adoption or waiver of consent to adoption** is in the
11 best interests of the child and the parent has, **in a properly executed writing**
12 **under sections 453.030 or 453.050,** consented [in writing] to the termination
13 of his or her parental rights **or consented to a specific adoption or waived**
14 **consent to adoption.**

15 [2. The written consent required by subsection 1 of this section may be

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

16 executed before or after the institution of the proceedings and shall be
17 acknowledged before a notary public. In lieu of such acknowledgment, the
18 signature of the person giving the written consent shall be witnessed by at least
19 two adult persons who are present at the execution whose signatures and
20 addresses shall be plainly written thereon and who determine and certify that the
21 consent is knowingly and freely given. The two adult witnesses shall not be the
22 prospective parents. The notary public or witnesses shall verify the identity of
23 the party signing the consent.

24 3. The written consent required by subsection 1 of this section shall be
25 valid and effective only after the child is at least forty-eight hours old and if it
26 complies with the other requirements of section 453.030.]

211.447. 1. Any information that could justify the filing of a petition to
2 terminate parental rights may be referred to the juvenile officer by any
3 person. The juvenile officer shall make a preliminary inquiry and if it appears
4 that the information could justify the filing of a petition, the juvenile officer may
5 take further action, including filing a petition. If it does not appear to the
6 juvenile officer that a petition should be filed, such officer shall so notify the
7 informant in writing within thirty days of the referral. Such notification shall
8 include the reasons that the petition will not be filed.

9 2. Except as provided for in subsection 4 of this section, a petition to
10 terminate the parental rights of the child's parent or parents shall be filed by the
11 juvenile officer or the division, or if such a petition has been filed by another
12 party, the juvenile officer or the division shall seek to be joined as a party to the
13 petition, when:

14 (1) Information available to the juvenile officer or the division establishes
15 that the child has been in foster care for at least fifteen of the most recent
16 twenty-two months; or

17 (2) A court of competent jurisdiction has determined the child to be an
18 abandoned infant. For purposes of this subdivision, an "infant" means any child
19 one year of age or under at the time of filing of the petition. The court may find
20 that an infant has been abandoned if:

21 (a) The parent has left the child under circumstances that the identity of
22 the child was unknown and could not be ascertained, despite diligent searching,
23 and the parent has not come forward to claim the child; or

24 (b) The parent has, without good cause, left the child without any
25 provision for parental support and without making arrangements to visit or

26 communicate with the child, although able to do so; or

27 (c) The parent has voluntarily relinquished a child under section 210.950;

28 or

29 (3) A court of competent jurisdiction has determined that the parent has:

30 (a) Committed murder of another child of the parent; or

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

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

34 (d) Committed a felony assault that resulted in serious bodily injury to
35 the child or to another child of the parent.

36 3. A termination of parental rights petition shall be filed by the juvenile
37 officer or the division, or if such a petition has been filed by another party, the
38 juvenile officer or the division shall seek to be joined as a party to the petition,
39 within sixty days of the judicial determinations required in subsection 2 of this
40 section, except as provided in subsection 4 of this section. Failure to comply with
41 this requirement shall not deprive the court of jurisdiction to adjudicate a
42 petition for termination of parental rights which is filed outside of sixty days.

43 4. If grounds exist for termination of parental rights pursuant to
44 subsection 2 of this section, the juvenile officer or the division may, but is not
45 required to, file a petition to terminate the parental rights of the child's parent
46 or parents if:

47 (1) The child is being cared for by a relative; or

48 (2) There exists a compelling reason for determining that filing such a
49 petition would not be in the best interest of the child, as documented in the
50 permanency plan which shall be made available for court review; or

51 (3) The family of the child has not been provided such services as provided
52 for in section 211.183.

53 5. The juvenile officer or the division may file a petition to terminate the
54 parental rights of the child's parent when it appears that one or more of the
55 following grounds for termination exist:

56 (1) The child has been abandoned. For purposes of this subdivision a
57 "child" means any child over one year of age at the time of filing of the
58 petition. The court shall find that the child has been abandoned if, for a period
59 of six months or longer:

60 (a) The parent has left the child under such circumstances that the
61 identity of the child was unknown and could not be ascertained, despite diligent

62 searching, and the parent has not come forward to claim the child; or

63 (b) The parent has, without good cause, left the child without any
64 provision for parental support and without making arrangements to visit or
65 communicate with the child, although able to do so;

66 (2) The child has been abused or neglected. In determining whether to
67 terminate parental rights pursuant to this subdivision, the court shall consider
68 and make findings on the following conditions or acts of the parent:

69 (a) A mental condition which is shown by competent evidence either to be
70 permanent or such that there is no reasonable likelihood that the condition can
71 be reversed and which renders the parent unable to knowingly provide the child
72 the necessary care, custody and control;

73 (b) Chemical dependency which prevents the parent from consistently
74 providing the necessary care, custody and control of the child and which cannot
75 be treated so as to enable the parent to consistently provide such care, custody
76 and control;

77 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
78 toward the child or any child in the family by the parent, including an act of
79 incest, or by another under circumstances that indicate that the parent knew or
80 should have known that such acts were being committed toward the child or any
81 child in the family; or

82 (d) Repeated or continuous failure by the parent, although physically or
83 financially able, to provide the child with adequate food, clothing, shelter, or
84 education as defined by law, or other care and control necessary for the child's
85 physical, mental, or emotional health and development.

86 Nothing in this subdivision shall be construed to permit discrimination on the
87 basis of disability or disease;

88 (3) The child has been under the jurisdiction of the juvenile court for a
89 period of one year, and the court finds that the conditions which led to the
90 assumption of jurisdiction still persist, or conditions of a potentially harmful
91 nature continue to exist, that there is little likelihood that those conditions will
92 be remedied at an early date so that the child can be returned to the parent in
93 the near future, or the continuation of the parent-child relationship greatly
94 diminishes the child's prospects for early integration into a stable and permanent
95 home. In determining whether to terminate parental rights under this
96 subdivision, the court shall consider and make findings on the following:

97 (a) The terms of a social service plan entered into by the parent and the

98 division and the extent to which the parties have made progress in complying
99 with those terms;

100 (b) The success or failure of the efforts of the juvenile officer, the division
101 or other agency to aid the parent on a continuing basis in adjusting his
102 circumstances or conduct to provide a proper home for the child;

103 (c) A mental condition which is shown by competent evidence either to be
104 permanent or such that there is no reasonable likelihood that the condition can
105 be reversed and which renders the parent unable to knowingly provide the child
106 the necessary care, custody and control;

107 (d) Chemical dependency which prevents the parent from consistently
108 providing the necessary care, custody and control over the child and which cannot
109 be treated so as to enable the parent to consistently provide such care, custody
110 and control; or

111 (4) The parent has been found guilty or pled guilty to a felony violation
112 of chapter 566 when the child or any child in the family was a victim, or a
113 violation of section 568.020 when the child or any child in the family was a
114 victim. As used in this subdivision, a "child" means any person who was under
115 eighteen years of age at the time of the crime and who resided with such parent
116 or was related within the third degree of consanguinity or affinity to such parent;
117 or

118 (5) The child was conceived and born as a result of an act of forcible rape
119 or rape in the first degree. When the biological father has pled guilty to, or is
120 convicted of, the forcible rape or rape in the first degree of the birth mother, such
121 a plea or conviction shall be conclusive evidence supporting the termination of the
122 biological father's parental rights; or

123 (6) (a) The parent is unfit to be a party to the parent and child
124 relationship because of a consistent pattern of committing a specific abuse
125 including, but not limited to, specific conditions directly relating to the parent
126 and child relationship which are determined by the court to be of a duration or
127 nature that renders the parent unable for the reasonably foreseeable future to
128 care appropriately for the ongoing physical, mental, or emotional needs of the
129 child.

130 (b) It is presumed that a parent is unfit to be a party to the parent and
131 child relationship upon a showing that:

132 a. Within a three-year period immediately prior to the termination
133 adjudication, the parent's parental rights to one or more other children were

134 involuntarily terminated pursuant to subsection 2 or 4 of this section or
135 subdivision (1), (2), (3), or (4) of this subsection or similar laws of other states;

136 b. If the parent is the birth mother and within eight hours after the
137 child's birth, the child's birth mother tested positive and over .08 blood alcohol
138 content pursuant to testing under section 577.020 for alcohol, or tested positive
139 for cocaine, heroin, methamphetamine, a controlled substance as defined in
140 section 195.010, or a prescription drug as defined in section 196.973, excepting
141 those controlled substances or prescription drugs present in the mother's body as
142 a result of medical treatment administered to the mother, and the birth mother
143 is the biological mother of at least one other child who was adjudicated an abused
144 or neglected minor by the mother or the mother has previously failed to complete
145 recommended treatment services by the children's division through a
146 family-centered services case;

147 c. If the parent is the birth mother and at the time of the child's birth or
148 within eight hours after a child's birth the child tested positive for alcohol,
149 cocaine, heroin, methamphetamine, a controlled substance as defined in section
150 195.010, or a prescription drug as defined in section 196.973, excepting those
151 controlled substances or prescription drugs present in the mother's body as a
152 result of medical treatment administered to the mother, and the birth mother is
153 the biological mother of at least one other child who was adjudicated an abused
154 or neglected minor by the mother or the mother has previously failed to complete
155 recommended treatment services by the children's division through a
156 family-centered services case; or

157 d. Within a three-year period immediately prior to the termination
158 adjudication, the parent has pled guilty to or has been convicted of a felony
159 involving the possession, distribution, or manufacture of cocaine, heroin, or
160 methamphetamine, and the parent is the biological parent of at least one other
161 child who was adjudicated an abused or neglected minor by such parent or such
162 parent has previously failed to complete recommended treatment services by the
163 children's division through a family-centered services case.

164 6. The juvenile court may terminate the rights of a parent to a child upon
165 a petition filed by the juvenile officer or the division, or in adoption cases, by a
166 prospective parent, if the court finds that the termination is in the best interest
167 of the child and when it appears by clear, cogent and convincing evidence that
168 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

169 7. When considering whether to terminate the parent-child relationship

170 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of
171 subsection 5 of this section, the court shall evaluate and make findings on the
172 following factors, when appropriate and applicable to the case:

173 (1) The emotional ties to the birth parent;

174 (2) The extent to which the parent has maintained regular visitation or
175 other contact with the child;

176 (3) The extent of payment by the parent for the cost of care and
177 maintenance of the child when financially able to do so including the time that
178 the child is in the custody of the division or other child-placing agency;

179 (4) Whether additional services would be likely to bring about lasting
180 parental adjustment enabling a return of the child to the parent within an
181 ascertainable period of time;

182 (5) The parent's disinterest in or lack of commitment to the child;

183 (6) The conviction of the parent of a felony offense that the court finds is
184 of such a nature that the child will be deprived of a stable home for a period of
185 years; provided, however, that incarceration in and of itself shall not be grounds
186 for termination of parental rights;

187 (7) Deliberate acts of the parent or acts of another of which the parent
188 knew or should have known that subjects the child to a substantial risk of
189 physical or mental harm.

190 8. The court may attach little or no weight to infrequent visitations,
191 communications, or contributions. It is irrelevant in a termination proceeding
192 that the maintenance of the parent-child relationship may serve as an
193 inducement for the parent's rehabilitation.

194 9. In actions for adoption pursuant to chapter 453, the court may hear and
195 determine the issues raised in a petition for adoption containing a prayer for
196 termination of parental rights filed with the same effect as a petition permitted
197 pursuant to subsection 2, 4, or 5 of this section.

198 10. The disability or disease of a parent shall not constitute a basis for a
199 determination that a child is a child in need of care, for the removal of custody
200 of a child from the parent, or for the termination of parental rights without a
201 specific showing that there is a causal relation between the disability or disease
202 and harm to the child.

203 **11. A court of competent jurisdiction may terminate the parental**
204 **rights of a biological father of a child if he is an alleged perpetrator of**
205 **forcible rape under section 566.030 as it existed prior to August 28,**

206 2013, or rape in the first degree under section 566.030 that resulted in
207 the conception and birth of the child. The biological mother who is the
208 victim of the forcible rape or rape in the first degree or, if she is a
209 minor, someone on her behalf may file a petition to terminate the
210 parental rights of the biological father. The court may terminate the
211 parental rights of the biological father if the court finds that by:

212 (1) Clear, cogent, and convincing evidence the biological father
213 committed the act of forcible rape or rape in the first degree against
214 the biological mother;

215 (2) Clear, cogent, and convincing evidence the child was
216 conceived as a result of that act of forcible rape or rape in the first
217 degree; and

218 (3) The preponderance of the evidence the termination of the
219 parental rights of the biological father is in the best interests of the
220 child.

221 12. In any action to terminate the parental rights of the
222 biological father under subsection 11 of this section or subdivision (5)
223 of subsection 5 of this section, a court of competent jurisdiction may
224 order that the mother and the child conceived and born as a result of
225 forcible rape or rape in the first degree are entitled to obtain from the
226 biological father certain payments, support, beneficiary designations,
227 or other financial benefits. The court shall issue such order only if the
228 mother gives her consent; provided, that the court shall first inform the
229 mother that such order may require or obligate the mother to have
230 continuous or future communication and contact with the biological
231 father. Such order shall be issued without the biological father being
232 entitled to or granted any custody, guardianship, visitation privileges,
233 or other parent-child relationship, and may include any or all of the
234 following:

235 (1) Payment for the reasonable expenses of the mother or the
236 child, or both, related to pregnancy, labor, delivery, postpartum care,
237 newborn care, or early childhood care;

238 (2) Child support under this chapter or chapters 210, 452, or 454;

239 (3) All rights of the child to inherit under the probate code, as
240 defined in section 472.010; provided that, for purposes of intestate
241 succession, the biological father or his kindred shall have no right to
242 inherit from or through the child;

243 **(4) The designation of the child as the beneficiary of a life or**
244 **accidental death insurance policy, annuity, contract, plan, or other**
245 **product sold or issued by a life insurance company; or**

246 **(5) Any other payments, support, beneficiary designations, or**
247 **financial benefits that are in the best interests of the child or for the**
248 **reasonable expenses of the mother, or both.**

249 **If the mother declines to seek a court order for child support under**
250 **this subsection, no state agency shall require the mother to do so in**
251 **order to receive public assistance benefits for herself or the child,**
252 **including, but not limited to, benefits for temporary assistance for**
253 **needy families, supplemental nutrition assistance program, or MO**
254 **HealthNet. The court order terminating the parental rights of the**
255 **biological father under subdivision (5) of subsection 5 of this section or**
256 **subsection 11 of this section shall serve as a sufficient basis for a good**
257 **cause or other exemptions under 42 U.S.C. Section 654(29) and the state**
258 **agency shall not require the mother or the child to otherwise provide**
259 **the identity, location, income, or assets of the biological father or have**
260 **contact or communicate with the biological father. However, nothing**
261 **in this subsection shall prohibit a state agency from requesting that the**
262 **mother assign any child support rights she receives under this**
263 **subsection to the state as a condition of receipt of public assistance**
264 **benefits under applicable federal and state law.**

✓

Copy