

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 800**  
**99TH GENERAL ASSEMBLY**

5433H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 211.093, 211.444, and 211.447, RSMo, and to enact in lieu thereof three new sections relating to juvenile court proceedings.

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

Section A. Sections 211.093, 211.444, and 211.447, RSMo, are repealed and three new  
2 sections enacted in lieu thereof, to be known as sections 211.093, 211.444, and 211.447, to read  
3 as follows:

211.093. **1.** Any order or judgment entered by the court under authority of this chapter  
2 or chapter 210 shall, so long as [~~such order or judgment remains in effect~~] **the juvenile court**  
3 **exercises continuing jurisdiction**, take precedence over any order or judgment concerning the  
4 status or custody of a child under [~~age~~] **twenty-one years of age** entered by a court under  
5 authority of chapter 452, 453, 454 or 455, **or orders of guardianship under chapter 475**, but  
6 only to the extent inconsistent therewith.

7 **2. In addition to all other powers conveyed upon the court by this chapter and**  
8 **chapter 210, any court exercising jurisdiction over a child under subdivision (1) of**  
9 **subsection 1 of section 211.031 shall have authority to enter an order regarding custody of**  
10 **the child under chapter 452, enter a child support order, and establish rights of visitation**  
11 **for the parents of the child. In every case in which the juvenile or family court exercises**  
12 **authority over a child under subdivision (1) or (2) of subsection 1 of section 211.031, the**  
13 **court shall have concurrent authority and jurisdiction with the circuit court to enter a final**  
14 **order and judgment establishing the paternity of the child's biological father under the**  
15 **uniform parentage act under sections 210.817 to 210.852.**

16 **3. Any custody, support, or visitation order entered by the court under subsection**  
17 **2 of this section shall remain in full force and effect after the termination of juvenile court**

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.

18 **proceedings unless the court's order specifically states otherwise. Any custody, child**  
19 **support, or visitation order shall take precedence over and shall automatically stay any**  
20 **prior orders concerning custody, child support, guardianship, or visitation. Such orders**  
21 **shall remain in full force and effect until a subsequent order with respect to custody, child**  
22 **support, guardianship, or visitation of the child is entered by a court under the authority**  
23 **of this chapter or chapter 210, 452, 453, 454, or 455, or orders of guardianship under**  
24 **chapter 475. Any final judgment and order establishing paternity under this section shall**  
25 **be a final and binding judgment of the circuit court as in other civil judgments entered**  
26 **under the uniform parentage act under sections 210.817 to 210.852, and the court may**  
27 **enter the final paternity judgment and order under a different, nonjuvenile case number.**

28 **4. If the juvenile court terminates jurisdiction without entering a continuing**  
29 **custody, support, or visitation order under subsections 2 and 3 of this section, legal and**  
30 **physical custody of the child shall be returned to the custodian, parent, or legal guardian**  
31 **who exercised custody prior to the juvenile court assuming jurisdiction under subdivision**  
32 **(1) of subsection 1 of section 211.031, and any custody or visitation orders in effect at the**  
33 **time the juvenile court assumed jurisdiction shall be restored.**

34 **5. The juvenile court shall not have the authority to hear modification motions or**  
35 **other actions to rehear any orders entered under this section after the juvenile court**  
36 **terminates jurisdiction on the underlying case. Any future actions shall be conducted**  
37 **under sections 210.817 to 210.852, this chapter, or chapter 452, 453, 454, 455, or 475, as**  
38 **appropriate.**

39 **6. Any child support order entered under this section shall be established and**  
40 **enforced pursuant to the procedures set forth by chapter 454. On entry of a child support**  
41 **order, the circuit clerk shall send a certified copy to the family support division for**  
42 **enforcement in the manner provided by law.**

43 **7. In all cases filed under subdivisions (1) and (2) of subsection 1 of section 211.031,**  
44 **the children's division shall make all reasonable efforts, as defined by section 211.183, to**  
45 **establish paternity within sixty days of the juvenile court obtaining jurisdiction over the**  
46 **child.**

211.444. [±] The juvenile court may, upon petition of the juvenile officer or a child-  
2 placing agency licensed under sections 210.481 to 210.536 in conjunction with a placement with  
3 such agency under subsection 6 of section 453.010[-] or [the court before which] a private  
4 attorney filing a petition for adoption [has been filed pursuant to] under the provisions of  
5 chapter 453, terminate the rights of a parent or receive the consent to a specific adoption or  
6 waiver of consent to adoption executed by a parent or named father to a child, including  
7 a child who is a ward of the court, if the court finds that such termination, consent to a

8 **specific adoption, or waiver of consent to adoption** is in the best interests of the child, and the  
9 parent or named father has, in a properly executed writing under section 453.030 or  
10 **453.050**, consented [~~in writing~~] to the termination of his or her parental rights, **consented to a**  
11 **specific adoption, or waived consent to adoption.**

12 ~~[2. The written consent required by subsection 1 of this section may be executed before~~  
13 ~~or after the institution of the proceedings and shall be acknowledged before a notary public. In~~  
14 ~~lieu of such acknowledgment, the signature of the person giving the written consent shall be~~  
15 ~~witnessed by at least two adult persons who are present at the execution whose signatures and~~  
16 ~~addresses shall be plainly written thereon and who determine and certify that the consent is~~  
17 ~~knowingly and freely given. The two adult witnesses shall not be the prospective parents. The~~  
18 ~~notary public or witnesses shall verify the identity of the party signing the consent.~~

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

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

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

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

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

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

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

- 23 (c) The parent has voluntarily relinquished a child under section 210.950; or  
24 (3) A court of competent jurisdiction has determined that the parent has:  
25 (a) Committed murder of another child of the parent; or  
26 (b) Committed voluntary manslaughter of another child of the parent; or  
27 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or  
28 voluntary manslaughter; or  
29 (d) Committed a felony assault that resulted in serious bodily injury to the child or to  
30 another child of the parent.

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

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

- 40 (1) The child is being cared for by a relative; or  
41 (2) There exists a compelling reason for determining that filing such a petition would  
42 not be in the best interest of the child, as documented in the permanency plan which shall be  
43 made available for court review; or  
44 (3) The family of the child has not been provided such services as provided for in section  
45 211.183.

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

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

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

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

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

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

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

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

71 (d) Repeated or continuous failure by the parent, although physically or financially able,  
72 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other  
73 care and control necessary for the child's physical, mental, or emotional health and development.  
74 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability  
75 or disease;

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

84 (a) The terms of a social service plan entered into by the parent and the division and the  
85 extent to which the parties have made progress in complying with those terms;

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

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

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

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

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

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

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

111 a. Within a three-year period immediately prior to the termination adjudication, the  
112 parent's parental rights to one or more other children were involuntarily terminated pursuant to  
113 subsection 2 or 4 of this section or subdivision (1), (2), (3), or (4) of this subsection or similar  
114 laws of other states;

115 b. If the parent is the birth mother and within eight hours after the child's birth, the child's  
116 birth mother tested positive and over .08 blood alcohol content pursuant to testing under section  
117 577.020 for alcohol, or tested positive for cocaine, heroin, methamphetamine, a controlled  
118 substance as defined in section 195.010, or a prescription drug as defined in section 196.973,  
119 excepting those controlled substances or prescription drugs present in the mother's body as a  
120 result of medical treatment administered to the mother, and the birth mother is the biological  
121 mother of at least one other child who was adjudicated an abused or neglected minor by the  
122 mother or the mother has previously failed to complete recommended treatment services by the  
123 children's division through a family-centered services case;

124 c. If the parent is the birth mother and at the time of the child's birth or within eight hours  
125 after a child's birth the child tested positive for alcohol, cocaine, heroin, methamphetamine, a  
126 controlled substance as defined in section 195.010, or a prescription drug as defined in section  
127 196.973, excepting those controlled substances or prescription drugs present in the mother's body

128 as a result of medical treatment administered to the mother, and the birth mother is the biological  
129 mother of at least one other child who was adjudicated an abused or neglected minor by the  
130 mother or the mother has previously failed to complete recommended treatment services by the  
131 children's division through a family-centered services case; or

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

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

143 7. When considering whether to terminate the parent-child relationship pursuant to  
144 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,  
145 the court shall evaluate and make findings on the following factors, when appropriate and  
146 applicable to the case:

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

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

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

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

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

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

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

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

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

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

171           **11. A court of competent jurisdiction may terminate the parental rights of a**  
172 **biological father of a child if he is an alleged perpetrator of forcible rape under section**  
173 **566.030 as it existed prior to August 28, 2013, or rape in the first degree under section**  
174 **566.030 that resulted in the conception and birth of the child. The biological mother who**  
175 **is the victim of the forcible rape or rape in the first degree or, if she is a minor, someone**  
176 **on her behalf may file a petition to terminate the parental rights of the biological father.**  
177 **The court may terminate the parental rights of the biological father if the court finds that**  
178 **by:**

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

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

183           **(3) The preponderance of the evidence the termination of the parental rights of the**  
184 **biological father is in the best interests of the child.**

185           **12. In any action to terminate the parental rights of the biological father under**  
186 **subsection 11 of this section or subdivision (5) of subsection 5 of this section, a court of**  
187 **competent jurisdiction may order that the mother and the child conceived and born as a**  
188 **result of forcible rape or rape in the first degree are entitled to obtain from the biological**  
189 **father certain payments, support, beneficiary designations, or other financial benefits. The**  
190 **court shall issue such order only if the mother gives her consent; provided, that the court**  
191 **shall first inform the mother that such order may require or obligate the mother to have**  
192 **continuous or future communication and contact with the biological father. Such order**  
193 **shall be issued without the biological father being entitled to or granted any custody,**  
194 **guardianship, visitation privileges, or other parent-child relationship, and may include any**  
195 **or all of the following:**

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

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



199           **(3) All rights of the child to inherit under the probate code, as defined in section**  
200 **472.010; provided that, for purposes of intestate succession, the biological father or his**  
201 **kindred shall have no right to inherit from or through the child;**

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

205           **(5) Any other payments, support, beneficiary designations, or financial benefits that**  
206 **are in the best interests of the child or for the reasonable expenses of the mother, or both.**  
207 **If the mother declines to seek a court order for child support under this subsection, no state**  
208 **agency shall require the mother to do so in order to receive public assistance benefits for**  
209 **herself or the child, including, but not limited to, benefits for temporary assistance for**  
210 **needy families, supplemental nutrition assistance program, or MO HealthNet. The court**  
211 **order terminating the parental rights of the biological father under subdivision (5) of**  
212 **subsection 5 of this section or subsection 11 of this section shall serve as a sufficient basis**  
213 **for a good cause or other exemptions under 42 U.S.C. Section 654(29) and the state agency**  
214 **shall not require the mother or the child to otherwise provide the identity, location, income,**  
215 **or assets of the biological father or have contact or communicate with the biological father.**  
216 **However, nothing in this subsection shall prohibit a state agency from requesting that the**  
217 **mother assign any child support rights she receives under this subsection to the state as a**  
218 **condition of receipt of public assistance benefits under applicable federal and state law.**

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