

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 890
99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Offered March 28, 2018.

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Taken up for Perfection March 28, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

5820S.04P

AN ACT

To repeal section 211.447, RSMo, and to enact in lieu thereof two new sections relating to child abuse and neglect, with penalty provisions.

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

Section A. Section 211.447, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.151 and 211.447, to read as
3 follows:

210.151. 1. **The children's division, a juvenile officer, or a**
2 **prosecuting or circuit attorney may petition the circuit court for an**
3 **order directing a parent, guardian, or other person with care, custody,**
4 **or control of a child who is the subject of an investigation of child**
5 **abuse or neglect to present the child at a place and time designated by**
6 **the court to a children's division worker for a visual assessment of the**
7 **child's health and safety; to a SAFE CARE provider, as defined in**
8 **section 334.950, for a sexual assault forensic examination or a child**
9 **physical abuse forensic examination; or to a child assessment center,**
10 **as described in section 210.001, for an interview. A visual assessment**
11 **may include an unhindered view of the child's head or limbs, but no**
12 **child shall be required to answer questions without the consent of a**
13 **parent or guardian during the visual assessment, unless such**

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

14 **questioning is otherwise authorized by law. During an interview at a**
15 **child assessment center, a video recording of any interview with the**
16 **child at the center shall be made and preserved and shall be admissible**
17 **in evidence in accordance with Missouri supreme court rules and the**
18 **provisions of chapters 490, 491, 492, 510, 545, and 595.**

19 **(1) The court shall enter an order for presentation of a child for**
20 **a sexual assault forensic examination, a child physical abuse forensic**
21 **examination, or an interview under this section if the court determines**
22 **that there is probable cause to believe that the child has been abused**
23 **or neglected, the examination or interview is reasonably necessary for**
24 **the completion of an investigation or for the collection of evidence, and**
25 **doing so would be in the best interests of the child. The court shall**
26 **enter an order for a visual assessment under this section if the court**
27 **determines that there is reasonable suspicion to believe that the child**
28 **has been abused or neglected and the parent or guardian will not**
29 **voluntarily provide access to the child, a visual assessment is**
30 **reasonably necessary for the completion of an investigation or for the**
31 **collection of evidence, and doing so would be in the best interests of**
32 **the child.**

33 **(2) The petition and order may be made on an ex parte basis**
34 **when it is reasonable to believe that providing notice may place the**
35 **child at risk of further abuse or neglect, when it is reasonable to**
36 **believe that providing notice may cause the child to be removed from**
37 **the state of Missouri or the jurisdiction of the court, or if it is**
38 **reasonable to believe that evidence relevant to the investigation will be**
39 **unavailable if the order is not entered.**

40 **2. Any person served with a petition and order under this section**
41 **shall not be required to file an answer, but may file an answer or a**
42 **motion for a protective order or other appropriate relief. At the time**
43 **the order is served, the parent, guardian, or person with care, custody,**
44 **or control of the child shall be advised, both orally and in writing, of**
45 **his or her right to file an answer or motion with the court.**

46 **(1) The answer or motion shall be filed at or before the time for**
47 **production or disclosure set out in the order. The answer or motion**
48 **shall be in writing, but no particular form shall be required. The clerk**
49 **shall serve a copy of the answer or motion on the director of the**
50 **children's division or on the agency that applied for the order.**

51 **(2) The court shall expedite a hearing on the motion and shall**
52 **issue its decision no later than one business day after the date the**
53 **motion is filed. The court may review the motion in camera and stay**
54 **implementation of the order once for up to three days.**

55 **(3) Any information that may reveal the identity of a hotline**
56 **reporter shall not be disclosed to anyone in any proceeding under this**
57 **section unless otherwise allowed by law.**

58 **3. The petition for an order under this section shall be filed in**
59 **the juvenile or family court that has jurisdiction under section 211.031**
60 **or in the circuit court of the county:**

61 **(1) Where the child resides;**

62 **(2) Where the child may be found;**

63 **(3) Where the parent or legal guardian of the child resides or**
64 **may be found;**

65 **(4) Where the alleged perpetrator of the child abuse or neglect**
66 **resides or may be found;**

67 **(5) Where the subject of the order may be located or found;**

68 **(6) In Cole County, if none of the other venue provisions of this**
69 **section apply.**

70 **The court shall expedite all proceedings under this section so as to**
71 **ensure the safety of the child, the preservation of relevant evidence,**
72 **the completion of child abuse and neglect investigations within**
73 **statutory timeframes, and the provision of appropriate due process to**
74 **the parties involved.**

75 **4. Any person served with an order under this section who**
76 **knowingly violates the order shall be guilty of a class A misdemeanor.**

77 **5. The timeframes for the division to complete its investigation**
78 **and notify the alleged perpetrator of its decision set forth in sections**
79 **210.145, 210.152, and 210.183 shall be tolled from the date that the**
80 **division files a petition for an order until the order is complied with in**
81 **full, the order is withdrawn, or a court of competent jurisdiction**
82 **quashes the order.**

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; or

36 **(4) The parent has been found guilty of or pled guilty to a felony**
37 **violation of chapters 566 or 573 when the child or any child in the**
38 **family was a victim, or a violation of sections 568.020 or 568.065 when**
39 **the child or any child in the family was a victim. As used in this**
40 **subdivision, a "child" means any person who was under eighteen years**
41 **of age at the time of the crime and who resided with such parent or was**

42 **related within the third degree of consanguinity or affinity to such**
43 **parent.**

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

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

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

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

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

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

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

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

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

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

77 (a) A mental condition which is shown by competent evidence either to be

78 permanent or such that there is no reasonable likelihood that the condition can
79 be reversed and which renders the parent unable to knowingly provide the child
80 the necessary care, custody and control;

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

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

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

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

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

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

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

111 (c) A mental condition which is shown by competent evidence either to be
112 permanent or such that there is no reasonable likelihood that the condition can
113 be reversed and which renders the parent unable to knowingly provide the child

114 the necessary care, custody and control;

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

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

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

131 [(6)] (5) (a) The parent is unfit to be a party to the parent and child
132 relationship because of a consistent pattern of committing a specific abuse
133 including, but not limited to, specific conditions directly relating to the parent
134 and child relationship which are determined by the court to be of a duration or
135 nature that renders the parent unable for the reasonably foreseeable future to
136 care appropriately for the ongoing physical, mental, or emotional needs of the
137 child.

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

140 a. Within a three-year period immediately prior to the termination
141 adjudication, the parent's parental rights to one or more other children were
142 involuntarily terminated pursuant to subsection 2 or 4 of this section or
143 subdivision (1), (2), or (3)[, or (4)] of this subsection or similar laws of other
144 states;

145 b. If the parent is the birth mother and within eight hours after the
146 child's birth, the child's birth mother tested positive and over .08 blood alcohol
147 content pursuant to testing under section 577.020 for alcohol, or tested positive
148 for cocaine, heroin, methamphetamine, a controlled substance as defined in
149 section 195.010, or a prescription drug as defined in section 196.973, excepting

150 those controlled substances or prescription drugs present in the mother's body as
151 a result of medical treatment administered to the mother, and the birth mother
152 is the biological mother of at least one other child who was adjudicated an abused
153 or neglected minor by the mother or the mother has previously failed to complete
154 recommended treatment services by the children's division through a
155 family-centered services case;

156 c. If the parent is the birth mother and at the time of the child's birth or
157 within eight hours after a child's birth the child tested positive for alcohol,
158 cocaine, heroin, methamphetamine, a controlled substance as defined in section
159 195.010, or a prescription drug as defined in section 196.973, excepting those
160 controlled substances or prescription drugs present in the mother's body as a
161 result of medical treatment administered to the mother, and the birth mother is
162 the biological mother of at least one other child who was adjudicated an abused
163 or neglected minor by the mother or the mother has previously failed to complete
164 recommended treatment services by the children's division through a
165 family-centered services case; or

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

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

178 7. When considering whether to terminate the parent-child relationship
179 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), **or** (3) [or (4)]
180 of subsection 5 of this section, the court shall evaluate and make findings on the
181 following factors, when appropriate and applicable to the case:

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

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

185 (3) The extent of payment by the parent for the cost of care and

186 maintenance of the child when financially able to do so including the time that
187 the child is in the custody of the division or other child-placing agency;

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

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

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

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

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

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

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