

SECOND REGULAR SESSION

# SENATE BILL NO. 963

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time January 21, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6048S.011

## AN ACT

To repeal sections 210.110, 211.031, and 211.036, RSMo, and to enact in lieu thereof four new sections relating to the children's division.

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

Section A. Sections 210.110, 211.031, and 211.036, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 210.110,  
3 210.118, 211.031, and 211.036, to read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to  
2 210.183, the following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse  
4 inflicted on a child other than by accidental means by those responsible for the  
5 child's care, custody, and control, except that discipline including spanking,  
6 administered in a reasonable manner, shall not be construed to be abuse;

7 (2) "Assessment and treatment services for children under ten years old",  
8 an approach to be developed by the children's division which will recognize and  
9 treat the specific needs of at-risk and abused or neglected children under the age  
10 of ten. The developmental and medical assessment may be a broad physical,  
11 developmental, and mental health screening to be completed within thirty days  
12 of a child's entry into custody and every six months thereafter as long as the child  
13 remains in care. Screenings may be offered at a centralized location and include,  
14 at a minimum, the following:

15 (a) Complete physical to be performed by a pediatrician familiar with the  
16 effects of abuse and neglect on young children;

17 (b) Developmental, behavioral, and emotional screening in addition to  
18 early periodic screening, diagnosis, and treatment services, including a core set

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

19 of standardized and recognized instruments as well as interviews with the child  
20 and appropriate caregivers. The screening battery may be performed by a  
21 licensed mental health professional familiar with the effects of abuse and neglect  
22 on young children, who will then serve as the liaison between all service  
23 providers in ensuring that needed services are provided. Such treatment services  
24 may include in-home services, out-of-home placement, intensive twenty-four-hour  
25 treatment services, family counseling, parenting training and other best  
26 practices. Children whose screenings indicate an area of concern may complete  
27 a comprehensive, in-depth health, psychodiagnostic, or developmental assessment  
28 within sixty days of entry into custody;

29 (3) "Central registry", a registry of persons where the division has found  
30 probable cause to believe prior to August 28, 2004, or by a preponderance of the  
31 evidence after August 28, 2004, or a court has substantiated through court  
32 adjudication that the individual has committed child abuse or neglect or the  
33 person has pled guilty or has been found guilty of a crime pursuant to section  
34 565.020, 565.021, 565.023, 565.024 [or], 565.050, **566.030, 566.060, or 567.050**  
35 if the victim is a child less than eighteen years of age[, section 566.030 or 566.060  
36 if the victim is a child less than eighteen years of age], or **any** other crime  
37 pursuant to chapter 566 if the victim is a child less than eighteen years of age  
38 and the perpetrator is twenty-one years of age or older, [section 567.050 if the  
39 victim is a child less than eighteen years of age,] **a crime under** section 568.020,  
40 568.030, 568.045, 568.050, 568.060, 568.080, [or] 568.090, [section] **573.023,**  
41 **573.025 [or], 573.035, 573.037, 573.040, 573.200, or 573.205,** or an attempt to  
42 commit any such crimes. Any persons placed on the registry prior to August 28,  
43 2004, shall remain on the registry for the duration of time required by section  
44 210.152;

45 (4) "Child", any person, regardless of physical or mental condition, under  
46 eighteen years of age;

47 (5) "Children's services providers and agencies", any public, quasi-public,  
48 or private entity with the appropriate and relevant training and expertise in  
49 delivering services to children and their families as determined by the children's  
50 division, and capable of providing direct services and other family services for  
51 children in the custody of the children's division or any such entities or agencies  
52 that are receiving state moneys for such services;

53 (6) "Director", the director of the Missouri children's division within the  
54 department of social services;

55 (7) "Division", the Missouri children's division within the department of  
56 social services;

57 (8) "Family assessment and services", an approach to be developed by the  
58 children's division which will provide for a prompt assessment of a child who has  
59 been reported to the division as a victim of abuse or neglect by a person  
60 responsible for that child's care, custody or control and of that child's family,  
61 including risk of abuse and neglect and, if necessary, the provision of  
62 community-based services to reduce the risk and support the family;

63 (9) "Family support team meeting" or "team meeting", a meeting convened  
64 by the division or children's services provider in behalf of the family and/or child  
65 for the purpose of determining service and treatment needs, determining the need  
66 for placement and developing a plan for reunification or other permanency  
67 options, determining the appropriate placement of the child, evaluating case  
68 progress, and establishing and revising the case plan;

69 (10) "Investigation", the collection of physical and verbal evidence to  
70 determine if a child has been abused or neglected;

71 (11) "Jail or detention center personnel", employees and volunteers  
72 working in any premises or institution where incarceration, evaluation, care,  
73 treatment or rehabilitation is provided to persons who are being held under  
74 custody of the law;

75 (12) "Neglect", failure to provide, by those responsible for the care,  
76 custody, and control of the child, the proper or necessary support, education as  
77 required by law, nutrition or medical, surgical, or any other care necessary for the  
78 child's well-being;

79 (13) "Preponderance of the evidence", that degree of evidence that is of  
80 greater weight or more convincing than the evidence which is offered in  
81 opposition to it or evidence which as a whole shows the fact to be proved to be  
82 more probable than not;

83 (14) "Probable cause", available facts when viewed in the light of  
84 surrounding circumstances which would cause a reasonable person to believe a  
85 child was abused or neglected;

86 (15) "Report", the communication of an allegation of child abuse or neglect  
87 to the division pursuant to section 210.115;

88 (16) "Those responsible for the care, custody, and control of the child",  
89 those included but not limited to the parents or guardian of a child, other  
90 members of the child's household, or those exercising supervision over a child for

91 any part of a twenty-four-hour day. Those responsible for the care, custody and  
92 control shall also include any adult who, based on relationship to the parents of  
93 the child, members of the child's household or the family, has access to the child.

210.118. 1. In any action under chapter 210, 211, 452, or 455 in  
2 which the court finds by a preponderance of the evidence that a party  
3 is responsible for child abuse or neglect, as those terms are defined in  
4 section 210.110, the clerk shall send a certified copy of the judgment or  
5 order to the children's division and to the appropriate prosecuting  
6 attorney. Upon receipt of the order, the children's division shall list  
7 the individual as a perpetrator of child abuse or neglect in the central  
8 registry.

9 2. In every case in which the person has pled guilty to or been  
10 found guilty of:

11 (1) A crime under section 565.020, 565.021, 565.023, 565.024,  
12 565.050, 566.030, 566.060, or 567.050, and the victim is a child under  
13 eighteen years of age;

14 (2) Any other crime in chapter 566 if the victim is a child under  
15 eighteen years of age and the perpetrator is twenty-one years of age or  
16 older;

17 (3) A crime under section 568.020, 568.030, 568.045, 568.050,  
18 568.060, 568.080, 568.090, 573.023, 573.025, 573.035, 573.037, 573.040,  
19 573.200, or 573.205; or

20 (4) An attempt to commit any such crimes;  
21 the court shall enter an order directing the children's division to list  
22 the individual as a perpetrator of child abuse or neglect in the central  
23 registry. The clerk shall send a certified copy of the order to the  
24 children's division. Upon receipt of the order, the children's division  
25 shall list the individual as a perpetrator of child abuse or neglect in the  
26 central registry.

211.031. 1. Except as otherwise provided in this chapter, the juvenile  
2 court or the family court in circuits that have a family court as provided in  
3 sections 487.010 to 487.190 shall have exclusive original jurisdiction in  
4 proceedings:

5 (1) Involving any child or person seventeen years of age who may be a  
6 resident of or found within the county and who is alleged to be in need of care  
7 and treatment because:

8 (a) The parents, or other persons legally responsible for the care and

9 support of the child or person seventeen years of age, neglect or refuse to provide  
10 proper support, education which is required by law, medical, surgical or other  
11 care necessary for his or her well-being; except that reliance by a parent,  
12 guardian or custodian upon remedial treatment other than medical or surgical  
13 treatment for a child or person seventeen years of age shall not be construed as  
14 neglect when the treatment is recognized or permitted pursuant to the laws of  
15 this state;

16 (b) The child or person seventeen years of age is otherwise without proper  
17 care, custody or support; [or]

18 (c) The child or person seventeen years of age was living in a room,  
19 building or other structure at the time such dwelling was found by a court of  
20 competent jurisdiction to be a public nuisance pursuant to section 195.130; **or**

21 (d) The child or person seventeen years of age is a child in need of mental  
22 health services and the parent, guardian or custodian is unable to afford or access  
23 appropriate mental health treatment or care for the child;

24 (2) Involving any child who may be a resident of or found within the  
25 county and who is alleged to be in need of care and treatment because:

26 (a) The child while subject to compulsory school attendance is repeatedly  
27 and without justification absent from school; [or]

28 (b) The child disobeys the reasonable and lawful directions of his or her  
29 parents or other custodian and is beyond their control; [or]

30 (c) The child is habitually absent from his or her home without sufficient  
31 cause, permission, or justification; [or]

32 (d) The behavior or associations of the child are otherwise injurious to his  
33 or her welfare or to the welfare of others; or

34 (e) The child is charged with an offense not classified as criminal, or with  
35 an offense applicable only to children; except that, the juvenile court shall not  
36 have jurisdiction over any child fifteen years of age who is alleged to have  
37 violated a state or municipal traffic ordinance or regulation, the violation of  
38 which does not constitute a felony, or any child who is alleged to have violated a  
39 state or municipal ordinance or regulation prohibiting possession or use of any  
40 tobacco product;

41 (3) Involving any child who is alleged to have violated a state law or  
42 municipal ordinance, or any person who is alleged to have violated a state law or  
43 municipal ordinance prior to attaining the age of seventeen years, in which cases  
44 jurisdiction may be taken by the court of the circuit in which the child or person

45 resides or may be found or in which the violation is alleged to have occurred;  
46 except that, the juvenile court shall not have jurisdiction over any child fifteen  
47 years of age who is alleged to have violated a state or municipal traffic ordinance  
48 or regulation, the violation of which does not constitute a felony, and except that  
49 the juvenile court shall have concurrent jurisdiction with the municipal court over  
50 any child who is alleged to have violated a municipal curfew ordinance, and  
51 except that the juvenile court shall have concurrent jurisdiction with the circuit  
52 court on any child who is alleged to have violated a state or municipal ordinance  
53 or regulation prohibiting possession or use of any tobacco product;

54 (4) For the adoption of a person;

55 (5) For the commitment of a child or person seventeen years of age to the  
56 guardianship of the department of social services as provided by law; [and]

57 (6) Involving an order of protection pursuant to chapter 455 when the  
58 respondent is less than seventeen years of age; **and**

59 **(7) Involving any youth for whom a petition to return the youth**  
60 **to children's division custody has been filed under section 211.036.**

61 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child  
62 or person seventeen years of age who resides in a county of this state shall be  
63 made as follows:

64 (1) Prior to the filing of a petition and upon request of any party or at the  
65 discretion of the juvenile officer, the matter in the interest of a child or person  
66 seventeen years of age may be transferred by the juvenile officer, with the prior  
67 consent of the juvenile officer of the receiving court, to the county of the child's  
68 residence or the residence of the person seventeen years of age for future action;

69 (2) Upon the motion of any party or on its own motion prior to final  
70 disposition on the pending matter, the court in which a proceeding is commenced  
71 may transfer the proceeding of a child or person seventeen years of age to the  
72 court located in the county of the child's residence or the residence of the person  
73 seventeen years of age, or the county in which the offense pursuant to subdivision  
74 (3) of subsection 1 of this section is alleged to have occurred for further action;

75 (3) Upon motion of any party or on its own motion, the court in which  
76 jurisdiction has been taken pursuant to subsection 1 of this section may at any  
77 time thereafter transfer jurisdiction of a child or person seventeen years of age  
78 to the court located in the county of the child's residence or the residence of the  
79 person seventeen years of age for further action with the prior consent of the  
80 receiving court;

81 (4) Upon motion of any party or upon its own motion at any time following  
82 a judgment of disposition or treatment pursuant to section 211.181, the court  
83 having jurisdiction of the cause may place the child or person seventeen years of  
84 age under the supervision of another juvenile court within or without the state  
85 pursuant to section 210.570 with the consent of the receiving court;

86 (5) Upon motion of any child or person seventeen years of age or his or  
87 her parent, the court having jurisdiction shall grant one change of judge pursuant  
88 to Missouri supreme court rules;

89 (6) Upon the transfer of any matter, proceeding, jurisdiction or  
90 supervision of a child or person seventeen years of age, certified copies of all legal  
91 and social documents and records pertaining to the case on file with the clerk of  
92 the transferring juvenile court shall accompany the transfer.

93 3. In any proceeding involving any child or person seventeen years of age  
94 taken into custody in a county other than the county of the child's residence or  
95 the residence of a person seventeen years of age, the juvenile court of the county  
96 of the child's residence or the residence of a person seventeen years of age shall  
97 be notified of such taking into custody within seventy-two hours.

98 4. When an investigation by a juvenile officer pursuant to this section  
99 reveals that the only basis for action involves an alleged violation of section  
100 167.031 involving a child who alleges to be home schooled, the juvenile officer  
101 shall contact a parent or parents of such child to verify that the child is being  
102 home schooled and not in violation of section 167.031 before making a report of  
103 such a violation. Any report of a violation of section 167.031 made by a juvenile  
104 officer regarding a child who is being home schooled shall be made to the  
105 prosecuting attorney of the county where the child legally resides.

106 5. The disability or disease of a parent shall not constitute a basis for a  
107 determination that a child is a child in need of care or for the removal of custody  
108 of a child from the parent without a specific showing that there is a causal  
109 relation between the disability or disease and harm to the child.

211.036. 1. If a youth under the age of twenty-one is released from the  
2 custody of the children's division and after such release it appears that it would  
3 be in such youth's best interest to have his or her custody returned to the  
4 children's division, the juvenile officer, the children's division or the youth may  
5 petition the court to return custody of such youth to the division until the youth  
6 is twenty-one years of age. **The petition shall be filed in the court that**  
7 **previously exercised authority over the youth under section 211.031, in**

8 the court in the county where the youth resides, or in the court of an  
9 adjacent county. In deciding if it is in the best interests of the youth  
10 to be returned to the custody of the children's division under this  
11 section, the court shall consider the following factors:

12 (1) The circumstances of the youth;

13 (2) Whether the children's division has services or programs in  
14 place that will benefit the youth and assist the youth in transitioning  
15 to self-sufficiency; and

16 (3) Whether the youth has the commitment to fully cooperate  
17 with the children's division in developing and implementing a case  
18 plan.

19 The court shall not return a youth to the custody of the children's  
20 division who has been committed to the custody of another agency, who  
21 is under a legal guardianship, or who has pled guilty to or been found  
22 guilty of a felony criminal offense.

23 2. The youth shall cooperate with the case plan developed for the  
24 youth by the children's division in consultation with the youth.

25 3. For purposes of this section, a "youth" is any person eighteen  
26 years of age or older and under twenty-one years of age who was in the  
27 custody of the children's division in foster care at any time in the two-  
28 year period preceding the youth's eighteenth birthday.

29 4. The court may, upon motion of the children's division or the  
30 youth, terminate care and supervision before the youth's twenty-first  
31 birthday if the court finds the children's division does not have  
32 services available for the youth, the youth no longer needs services, or  
33 if the youth declines to cooperate with the case plan.

34 5. The youth, at the youth's discretion, may request to be  
35 appointed a guardian ad litem. If a guardian ad litem is appointed, he  
36 or she shall serve under section 210.160.

37 6. The court shall hold review hearings as necessary, but in no  
38 event less than once every six months for as long as the youth is in the  
39 custody of the children's division.

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