

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1149

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAUER.

2462H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 219.011, 219.021, and 219.091, RSMo, and to enact in lieu thereof four new sections relating to the division of youth services.

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

Section A. Sections 219.011, 219.021, and 219.091, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 219.011, 219.021, 219.091, and
3 219.095, to read as follows:

219.011. 1. As used in [sections 219.011 to 219.086] **this chapter**, unless the context
2 clearly indicates otherwise, the following terms mean:

3 (1) "Aftercare supervision", treatment and control of children in the community under
4 the jurisdiction of the division;

5 (2) "Board", the state advisory board of youth services;

6 (3) "Child", a person under eighteen years of age;

7 (4) "Commit", to transfer legal and physical custody;

8 (5) "Community based treatment", a treatment program which is locally or regionally
9 based;

10 (6) "Department", the department of social services;

11 (7) "Director", the director of the division of youth services;

12 (8) "Division", the division of youth services (**DYS**);

13 (9) **"Youth", a person under twenty-one years of age committed to the custody of**
14 **the division of youth services.**

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.

15 2. When consistent with the intent of [sections 219.011 to 219.086] **this chapter**, the
16 singular includes the plural, the plural the singular and the masculine the feminine.

219.021. 1. Except as provided in subsections 2 and 3 of this section, any child may be
2 committed to the custody of the division when the juvenile court determines a suitable
3 community-based treatment service does not exist, or has proven ineffective; and when the child
4 is adjudicated pursuant to the provisions of subdivision (3) of subsection 1 of section 211.031
5 or when the child is adjudicated pursuant to subdivision (2) of subsection 1 of section 211.031
6 and is currently under court supervision for adjudication under subdivision (2) or (3) of
7 subsection 1 of section 211.031. The division shall not keep any [child] **youth** beyond his
8 eighteenth birth date, except upon petition and a showing of just cause in which case the division
9 may maintain custody until the [child's] **youth's** twenty-first birth date. Notwithstanding any
10 other provision of law to the contrary, the committing court shall review the treatment plan to
11 be provided by the division. The division shall notify the court of original jurisdiction from
12 which the child was committed at least three weeks prior to the child's release to aftercare
13 supervision. The notification shall include a summary of the treatment plan and progress of the
14 child that has resulted in the planned release. The court may formally object to the director of
15 the division in writing, stating its reasons in opposition to the release. The director shall review
16 the court's objection in consideration of its final approval for release. The court's written
17 objection shall be made within a one-week period after it receives notification of the division's
18 planned release; otherwise the division may assume court agreement with the release. The
19 division director's written response to the court shall occur within five working days of **service**
20 **of** the court's objection and preferably prior to the release of the child. The division shall not
21 place a child directly into a precare setting immediately upon commitment from the court until
22 it advises the court of such placement.

23 2. No child who has been diagnosed as having a mental disease or a communicable or
24 contagious disease shall be committed to the division; except the division may, by regulation,
25 when [facilities] **services** for the proper care and treatment of persons having such diseases are
26 available at any of the facilities under its control, authorize the commitment of children having
27 such diseases to it for treatment [and training] in such institution. Notice of any such regulation
28 shall be promptly mailed to the judges and juvenile officers of all courts having jurisdiction of
29 cases involving children.

30 3. When a child has been committed to the division, the division shall forthwith examine
31 the individual and investigate all pertinent circumstances of his background for the purpose of
32 facilitating the placement **and treatment** of the child in the most appropriate program or
33 residential facility to assure the public safety and the rehabilitation of the child; except that, no
34 child committed under the provisions of subdivision (2) of subsection 1 of section 211.031 may

35 be placed in the [regional] **residential** facilities [at the W. E. Sears Youth Center at Poplar Bluff
36 or the Hogan Street Regional Youth Center at St. Louis] **designated by the division as a**
37 **maximum security facility**, unless the juvenile is subsequently adjudicated under subdivision
38 (3) of subsection 1 of section 211.031.

39 4. The division may transfer any child under its jurisdiction to any other institution for
40 children if, after careful study of the child's needs, it is the judgment of the division that the
41 transfer should be effected. If the division determines that the child requires treatment by
42 another state agency, it may transfer the physical custody of the child to that agency, and that
43 agency shall accept the child if the services are available by that agency.

44 5. The division shall make periodic reexaminations of all children committed to its
45 custody for the purpose of determining whether existing dispositions should be modified or
46 continued. Reexamination shall include a study of all current circumstances of such child's
47 personal and family situation and an evaluation of the progress made by such child since the
48 previous study. Reexamination shall be conducted as frequently as the division deems necessary,
49 but in any event, with respect to each such child, at intervals not to exceed six months. Reports
50 of the results of such examinations shall be sent to the child's committing court and to his parents
51 or guardian.

52 6. Failure of the division to examine a child committed to it or to reexamine him within
53 six months of a previous examination shall not of itself entitle the child to be discharged from
54 the custody of the division but shall entitle the child, his parent, guardian, or agency to which the
55 child may be placed by the division to petition for review as provided in section 219.051.

56 7. The division is hereby authorized to establish, build, repair, maintain, and operate,
57 from funds appropriated or approved by the legislature for these purposes, facilities and
58 programs necessary to implement the provisions of [sections 219.011 to 219.086] **this chapter**.
59 Such facilities or programs may include, but not be limited to, the establishment and operation
60 of training schools, maximum security facilities, [park camps, regional] **modern care** facilities,
61 group homes, **day treatment programs**, family foster homes, aftercare, counseling services,
62 educational services, and such other services as may be required to meet the needs of children
63 committed to it. The division may terminate any facility or program no longer needed to meet
64 the needs of children.

65 8. The division may institute day release programs for children committed to it. The
66 division may arrange with local schools, public or private agencies, or persons approved by the
67 division for the release of children committed to the division on a daily basis to the custody of
68 such schools, agencies, or persons for participation in programs.

69 9. [The division may establish and offer on-the-job vocational training to develop work
70 habits and equip children committed to it with marketable skills. Such training shall not exceed

71 eight hours per day. The division may provide for the payment of reasonable wages or
72 allowances for work or tasks performed by a child committed to the division. For any work
73 performed by a child committed to the division in any state park or park work camp, the state
74 park board is hereby authorized, out of appropriations made to it, to pay wages not in excess of
75 fifteen dollars per month to each child. All funds paid to the child in accordance with this
76 section shall be deposited with the director and not less than one-half of this amount shall be paid
77 monthly to the child. The balance of such funds shall be held in trust by the director for payment
78 to the child at the time of his release from a facility.

79 10.] The division shall make all reasonable efforts to ensure that any outstanding
80 judgment entered in accordance with section 211.185 or any outstanding assessments ordered
81 in accordance with section 211.181 be paid while a child is in the care, custody or control of the
82 division.

219.091. 1. As used in this section, the term "department" means:

- 2 (1) The office of administration;
- 3 (2) The department of agriculture;
- 4 (3) The department of conservation;
- 5 (4) The department of economic development;
- 6 (5) The department of elementary and secondary education;
- 7 (6) The department of health and senior services;
- 8 (7) The department of higher education;
- 9 (8) The department of transportation;
- 10 (9) The department of insurance, financial institutions and professional registration;
- 11 (10) The department of labor and industrial relations;
- 12 (11) The department of mental health;
- 13 (12) The department of natural resources;
- 14 (13) The department of public safety;
- 15 (14) The department of revenue; and
- 16 (15) The department of social services.

17 2. The division of youth services [shall] **may** develop and establish a community work
18 program whereby [offenders from age fourteen to eighteen] **youth** committed to the custody of
19 the division may be employed in projects developed and established by any department.

20 3. The director or chief administrative officer of any department may request that the
21 director of the division of youth services choose suitable [offenders] **youth** for employment in
22 work projects developed by the division. Such projects shall be designed and approved by the
23 director or chief administrative officer of any department and approved by the director of the
24 division of youth services.

25 4. The division of youth services shall retain custody, supervision and control of any
26 [offender] **youth** employed in a work project developed pursuant to this section. Any work
27 [crew] **group** employed in a work project developed pursuant to this section shall consist of not
28 more than [eleven offenders] **thirteen youth**.

29 5. [No offender shall be employed in a work project developed pursuant to this section
30 if the offender has been convicted of a violent crime or whose conduct while under the control
31 of the division of youth services suggests a propensity toward violence. As used in this
32 subsection, the term "violent crime" means any crime which, in the determination of the director
33 of the division of youth services, involves violence or the threat of violence] **At such time as a**
34 **youth is considered for participation in a work project, the division of youth services shall**
35 **assess the youth and consider history, risk, readiness, and victim impact prior to**
36 **employment.**

37 6. The department proposing the work project shall supply all plans, tools and equipment
38 necessary for the completion of work projects developed pursuant to this section.

39 7. The department proposing the work project shall supply [crew leaders] **staff** to direct
40 work [crews] **groups** and supervise the completion of work projects. Such [crew leaders] **staff**
41 shall be employees of the department proposing the work project and shall receive from such
42 department and the division of youth services [at least twenty hours of] **appropriate** training per
43 year, which shall be designed to instruct the [crew leaders] **staff** in the skills necessary to
44 perform their duties.

45 8. The department proposing the work project and the division of youth services may
46 promulgate rules to effectuate the purposes of this section pursuant to chapter 536 and section
47 217.040.

48 **9. For any work performed by a youth committed to the division in any state park,**
49 **the state park board is hereby authorized, out of appropriations made to it, to pay wages.**

50 **10. The division may establish and offer on-the-job vocational training to develop**
51 **work habits and equip youth committed to it with marketable skills. The division may**
52 **provide for the payment of reasonable wages for work or tasks performed by a youth**
53 **committed to the division. All payments made to or on behalf of the youth under this**
54 **subsection shall be property of the youth; however, the division may place such restrictions**
55 **on the youth's access to the funds as the division determines appropriate in the best**
56 **interests of the youth and to assure security in the division's facilities. All funds paid to or**
57 **on behalf of the youth in accordance with this subsection shall be deposited in the DYS**
58 **trust fund established in section 219.095.**

2 **219.095. 1. There is hereby created a special class of trust funds to be known as the**
3 **"DYS Trust Fund" for depositing wages earned by a youth or for other funds provided for**

3 the use or benefit of the youth. These funds will be established for each facility where
4 youth are located in the custody of the DYS throughout the state. The division shall deposit
5 money in a DYS trust fund with a financial institution. Any earnings attributable to the
6 money in the account of a youth shall be credited to that youth's DYS trust fund. The
7 division will establish regulations regarding the creation and administration of accounts.
8 Moneys in these special trust funds shall not be deemed to be state funds. Moneys
9 deposited in these funds shall be used only for the purposes specified by federal or state
10 law, or regulation of the division. Notwithstanding the provisions of section 33.080 to the
11 contrary, moneys in these funds shall not be transferred to general revenue at the end of
12 each biennium. Any funds not expended by or on behalf of the youth before the youth's
13 release from DYS residential care shall be paid to the youth upon release from DYS
14 residential care.

15 2. The division shall establish by regulation a program for youth to access funds,
16 as deemed appropriate by the division, in the DYS trust fund for reasonable purposes
17 while the youth is in DYS residential care. The program shall include training for youth
18 on wise money management, maintaining personal financial accounts, and saving money
19 for use after discharge from DYS residential care.

20 3. There is hereby created a special trust fund to be known as the "DYS Child
21 Benefits Fund" within the state treasury for depositing of payments from the social security
22 administration to youth in DYS custody. Moneys in this special trust fund shall not be
23 deemed to be state funds. Moneys deposited in this fund shall be used only for the
24 purposes specified by federal or state law, or regulation of the division. The state treasurer
25 shall be custodian of the fund and may approve disbursements from the fund in
26 accordance with sections 30.170 and 30.180, RSMo. The state treasurer shall invest
27 moneys in the fund in the same manner as other funds are invested. Any interest and
28 moneys earned on such investments shall be credited to the fund. Notwithstanding the
29 provisions of section 33.080 to the contrary, moneys in the fund shall not be transferred to
30 general revenue at the end of each biennium. Any funds not expended by or on behalf of
31 the youth before release from DYS residential care shall be distributed as required by
32 federal law.

33 4. The division may accept an appointment to serve as representative payee or
34 fiduciary, or in a similar capacity for payments to a youth from the social security
35 administration or under any public or private benefit arrangement. Money so received
36 shall be governed by this section unless otherwise provided by law.

37 5. Any money received by the division under this section on behalf of a youth shall
38 be deposited in either a DYS trust fund or the DYS child benefits Fund and accounted for

39 in the name of the youth or as representative payee of the youth. The division shall by rule
40 adopted under chapter 536 establish procedures for the use and accounting of the money
41 and the protection of the money against theft, loss, or misappropriation. The rules
42 promulgated by the division shall comply with all federal requirements to be a
43 representative payee of the youth.

44 6. The division may accept funds which a parent, guardian or other person wishes
45 to provide for the use or benefit of the youth. The funds shall be deposited in a DYS Trust
46 fund in the name of the youth at the DYS location where the youth resides. The use of such
47 funds shall be governed by this section.

48 7. Each youth shall be furnished annually with a statement listing every transaction
49 involving funds which have been deposited with the division on the youth's behalf, to
50 include all receipts and disbursements.

51 8. The division shall use all proper diligence to promptly disburse any balance of
52 money accumulated in the youth's account in the manner required by law when the youth
53 is released from DYS residential care or upon death of the youth. When the youth is
54 deceased the balance shall be disbursed according to the procedures established by law for
55 descent and distribution or, in the case of moneys received from the social security
56 administration as representative payee, disbursed as required by federal law. If, after the
57 division has diligently used such methods and means as considered reasonable to refund
58 such funds, there shall remain any money, the owner of which is unknown to the division,
59 or if known, cannot be located by the division, in each and every such instance such money
60 shall be reported pursuant to sections 447.500 to 447.595.

61 9. Within five years after money has been paid into the state treasury, any person
62 who appears and wishes to claim the money may file a petition in the circuit court of Cole
63 County, Missouri, stating the nature of the claim and requesting that such money be paid
64 to such person. A copy of the petition shall be provided to the director of the department
65 of revenue who shall file an answer to the same. The court shall proceed to examine the
66 claim and the allegations and proof, and if it finds that such person is entitled to any money
67 so paid into the state treasury, it shall order the commissioner of administration to issue
68 a warrant on the state treasurer for the amount of such claim, but without interest or costs.
69 A certified copy of the order shall be sufficient voucher for issuing a warrant; provided,
70 that either party may appeal from the decision of the court in the same manner as provided
71 by law in other civil actions.

72 10. All moneys remaining unclaimed for a period of five years that have been paid
73 into the state treasury under the provisions of this section after remaining there unclaimed
74 for five years shall escheat and vest absolutely in the state and be credited to the state

75 **treasury, and all persons shall be forever barred and precluded from setting up title or**
76 **claim to any such funds.**

77 **11. Nothing in this section shall be deemed to apply to funds regularly due the state**
78 **of Missouri for the support and maintenance of youth in the care and custody of the**
79 **division or collected by the state of Missouri as reimbursement for state funds expended**
80 **on behalf of the youth.**

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