

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1559
101ST GENERAL ASSEMBLY

3489H.04C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 43.400, 43.401, 210.201, 210.482, 210.487, 210.762, and 568.045, RSMo, and to enact in lieu thereof eight new sections relating to the protection of children, with penalty provisions.

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

Section A. Sections 43.400, 43.401, 210.201, 210.482, 210.487, 210.762, and
2 568.045, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as
3 sections 43.400, 43.401, 210.201, 210.482, 210.487, 210.762, 210.795, and 568.045, to read
4 as follows:

43.400. As used in sections 43.400 to 43.410, the following terms mean:

- 2 (1) "Missing child" or "missing juvenile", any person who is under the age of
3 ~~seventeen~~ **eighteen years or who is in foster care regardless of the person's age**, whose
4 temporary or permanent residence is in the state of Missouri or who is believed to be within
5 the state of Missouri, whose location has not been determined, and who has been reported as
6 missing to a law enforcement agency;
- 7 (2) "Missing child report", a report prepared on a standard form supplied by the
8 Missouri state highway patrol for the use by private citizens and law enforcement agencies to
9 report missing children or missing juvenile information to the Missouri state highway patrol;
- 10 (3) "Missing person", a person who is missing and meets one of the following
11 characteristics:
- 12 (a) Is physically or mentally disabled to the degree that the person is dependent upon
13 an agency or another individual;
- 14 (b) Is missing under circumstances indicating that the missing person's safety may be
15 in danger;

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.

16 (c) Is missing under involuntary or unknown circumstances; subject to the provisions
17 of (a), (b), (d), (e), and (f) of this subsection;

18 (d) Is a child or juvenile runaway from the residence of a parent, legal guardian, or
19 custodian;

20 (e) Is a child and is missing under circumstances indicating that the person was or is
21 in the presence of or under the control of a party whose presence or control was or is in
22 violation of a permanent or temporary court order and fourteen or more days have elapsed,
23 during which time the party has failed to file any pleading with the court seeking modification
24 of the permanent or temporary court order;

25 (f) Is missing under circumstances indicating that the person was or is in the presence
26 of or under the control of a party whose presence or control was or is in violation of a
27 permanent or temporary court order and there are reasonable grounds to believe that the
28 person may be taken outside of the United States;

29 (4) "Patrol", the Missouri state highway patrol;

30 (5) "Registrar", the state registrar of vital statistics.

43.401. 1. The reporting of missing persons by law enforcement agencies, private
2 citizens, and the responsibilities of the patrol in maintaining accurate records of missing
3 persons are as follows:

4 (1) A person may file a complaint of a missing person with a law enforcement agency
5 having jurisdiction. The complaint shall include, but need not be limited to, the following
6 information:

7 (a) The name of the complainant;

8 (b) The name, address, and phone number of the guardian, if any, of the missing
9 person;

10 (c) The relationship of the complainant to the missing person;

11 (d) The name, age, address, and all identifying characteristics of the missing person;

12 (e) The length of time the person has been missing; and

13 (f) All other information deemed relevant by either the complainant or the law
14 enforcement agency;

15 (2) A report of the complaint of a missing person shall be immediately entered into
16 the Missouri uniform law enforcement system (MULES) and the National Crime Information
17 Center (NCIC) system by the law enforcement agency receiving the complaint, and
18 disseminated to other law enforcement agencies who may come in contact with or be
19 involved in the investigation or location of a missing person;

20 (3) A law enforcement agency with which a complaint of a missing child has been
21 filed shall prepare, as soon as practicable, a standard missing child report. The missing child

22 report shall be maintained as a record by the reporting law enforcement agency during the
23 course of an active investigation;

24 (4) Upon the location of a missing person, or the determination by the law
25 enforcement agency of jurisdiction that the person is no longer missing, the law enforcement
26 agency which reported the missing person shall immediately remove the record of the missing
27 person from the MULES and NCIC files.

28 2. No law enforcement agency shall prevent an immediate active investigation on the
29 basis of an agency rule which specifies an automatic time limitation for a missing person
30 investigation.

31 **3. An agency or placement provider with legal custody of a child shall ensure a**
32 **missing child report is filed once the agency or placement provider determines that a**
33 **child in the agency's or placement provider's custody is missing, and the agency or**
34 **placement provider shall be subject to the penalty provided under subdivision (2) of**
35 **subsection 1 of section 210.762. A law enforcement officer shall take a missing child**
36 **report from any member of the family support team as defined under section 210.762**
37 **and shall provide a copy of the missing child report to the agency or placement provider**
38 **with legal custody of the missing child. The agency or placement provider shall**
39 **maintain all missing child reports for any child under the legal custody of the agency or**
40 **placement provider.**

210.201. As used in sections 210.201 to 210.257, the following terms mean:

- 2 (1) "Child", an individual who is under the age of [~~seventeen~~] **eighteen**;
- 3 (2) "Child care", care of a child away from his or her home for any part of the twenty-
4 four-hour day for compensation or otherwise. Child care is a voluntary supplement to
5 parental responsibility for the child's protection, development, and supervision;
- 6 (3) "Child-care facility" or "child care facility", a house or other place conducted or
7 maintained by any person who advertises or holds himself or herself out as providing child
8 care for any part of the twenty-four-hour day for compensation or otherwise if providing child
9 care to more than:
- 10 (a) Six children; or
- 11 (b) Three children under two years of age;
- 12 (4) "Child care provider" or "provider", the person or persons licensed or required to
13 be licensed under section 210.221 to establish, conduct, or maintain a child care facility;
- 14 (5) "Montessori school", a child care program that is either accredited by, actively
15 seeking accreditation by, or maintains an active school membership with the American
16 Montessori Society, the Association Montessori Internationale, the International Montessori
17 Counsel, or the Montessori Educational Programs International;
- 18 (6) "Neighborhood youth development program", as described in section 210.278;

19 (7) "Nursery school", a program operated by a person or an organization with the
20 primary function of providing an educational program for preschool-age children for no more
21 than four hours per day per child;

22 (8) "Person", any individual, firm, corporation, partnership, association, agency, or an
23 incorporated or unincorporated organization regardless of the name used;

24 (9) "Religious organization", a church, synagogue or mosque; an entity that has or
25 would qualify for federal tax-exempt status as a nonprofit religious organization under
26 Section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the
27 child-care facility is located is exempt from taxation because it is used for religious purposes;

28 (10) "School system", a program established primarily for education and that meets
29 the following criteria:

30 (a) Provides education in at least the first to the sixth grade; and

31 (b) Provides evidence that the school system's records will be accepted by a public or
32 private school for the transfer of any student;

33 (11) "Summer camp", a program operated from May to September by a person or
34 organization with the primary function of providing a summer recreational program for
35 children five years of age or older and providing no child care for children under five years of
36 age in the same building or in the same outdoor play area.

210.482. 1. If the emergency placement of a child in a private home is necessary due
2 to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile
3 court or children's division:

4 (1) May request that a local or state law enforcement agency or juvenile officer,
5 subject to any required federal authorization, immediately conduct a name-based criminal
6 history record check to include full orders of protection and outstanding warrants of each
7 person over the age of seventeen residing in the home by using the Missouri uniform law
8 enforcement system (MULES) and the National Crime Information Center to access the
9 Interstate Identification Index maintained by the Federal Bureau of Investigation; and

10 (2) Shall determine or, in the case of the juvenile court, shall request the division to
11 determine whether any person over the age of seventeen years residing in the home is listed
12 on the child abuse and neglect registry. For any children less than ~~seventeen~~ **eighteen** years
13 of age residing in the home, the children's division shall inquire of the person with whom an
14 emergency placement of a child will be made whether any children less than ~~seventeen~~
15 **eighteen** years of age residing in the home have ever been certified as an adult and convicted
16 of or pled guilty or nolo contendere to any crime.

17 2. If a name-based search has been conducted pursuant to subsection 1 of this section,
18 within fifteen calendar days after the emergency placement of the child in the private home,
19 and if the private home has not previously been approved as a foster or adoptive home, all

20 persons over the age of seventeen residing in the home and all children less than ~~seventeen~~
21 **eighteen** residing in the home who the division has determined have been certified as an adult
22 for the commission of a crime shall report to a local law enforcement agency for the purpose
23 of providing fingerprints and accompanying fees, pursuant to sections 43.530 and 43.540.
24 Results of the checks shall be provided to the juvenile court or children's division office
25 requesting such information. Any child placed in emergency placement in a private home
26 shall be removed immediately if any person residing in the home fails to provide fingerprints
27 after being requested to do so, unless the person refusing to provide fingerprints ceases to
28 reside in the private home.

29 3. If the placement of a child is denied as a result of a name-based criminal history
30 check and the denial is contested, all persons over the age of seventeen residing in the home
31 and all children less than ~~seventeen~~ **eighteen** years of age residing in the home who the
32 division has determined have been certified as an adult for the commission of a crime shall,
33 within fifteen calendar days, submit to the juvenile court or the children's division fingerprints
34 in the same manner described in subsection 2 of this section, accompanying fees, and written
35 permission authorizing the juvenile court or the children's division to forward the fingerprints
36 to the state criminal record repository for submission to the Federal Bureau of Investigation.

37 4. No person who submits fingerprints under this section shall be required to submit
38 additional fingerprints under this section or section 210.487 unless the original fingerprints
39 retained by the division are lost or destroyed.

40 5. Subject to appropriation, the total cost of fingerprinting required by this section
41 may be paid by the state, including reimbursement of persons incurring fingerprinting costs
42 under this section.

43 6. For the purposes of this section, "emergency placement" refers to those limited
44 instances when the juvenile court or children's division is placing a child in the home of
45 private individuals, including neighbors, friends, or relatives, as a result of a sudden
46 unavailability of the child's primary caretaker.

210.487. 1. When conducting investigations of persons for the purpose of foster
2 parent licensing, the division shall:

3 (1) Conduct a search for all persons over the age of seventeen in the applicant's
4 household and for any child less than ~~seventeen~~ **eighteen** years of age residing in the
5 applicant's home who the division has determined has been certified as an adult for the
6 commission of a crime for evidence of full orders of protection. The office of state courts
7 administrator shall allow access to the automated court information system by the division.
8 The clerk of each court contacted by the division shall provide the division information within
9 ten days of a request;

10 (2) Obtain fingerprints for any person over the age of seventeen in the applicant's
11 household and for any child less than ~~seventeen~~ **eighteen** years of age residing in the
12 applicant's home who the division has determined has been certified as an adult for the
13 commission of a crime in the same manner set forth in subsection 2 of section 210.482. The
14 highway patrol shall assist the division and provide the criminal fingerprint background
15 information, upon request, under and in accordance with the provisions of section 43.540; and

16 (3) Determine whether any person over the age of seventeen residing in the home and
17 any child less than ~~seventeen~~ **eighteen** years of age residing in the applicant's home who the
18 division has determined has been certified as an adult for the commission of a crime is listed
19 on the child abuse and neglect registry. For any children less than ~~seventeen~~ **eighteen** years
20 of age residing in the applicant's home, the children's division shall inquire of the applicant
21 whether any children less than ~~seventeen~~ **eighteen** years of age residing in the home have
22 ever been certified as an adult and been convicted of or pled guilty or nolo contendere to any
23 crime.

24 2. After the initial investigation is completed under subsection 1 of this section:

25 (1) No person who submits fingerprints under subsection 1 of this section or section
26 210.482 shall be required to submit additional fingerprints under this section or section
27 210.482 unless the original fingerprints retained by the division are lost or destroyed;

28 (2) The highway patrol shall provide ongoing electronic updates to criminal history
29 background checks of those persons previously submitted as part of the licensing or approval
30 process under subsection 1 of this section. Ongoing electronic updates for such persons and
31 for those in their households shall terminate when such persons cease to be applicant or
32 licensed foster parents; and

33 (3) The children's division and the department of health and senior services may
34 waive the requirement for a fingerprint background check for any subsequent recertification.

35 3. Subject to appropriation, the total cost of fingerprinting required by this section
36 may be paid by the state, including reimbursement of persons incurring fingerprinting costs
37 under this section.

38 4. The division may make arrangements with other executive branch agencies to
39 obtain any investigative background information.

40 5. The division may promulgate rules that are necessary to implement the provisions
41 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
42 created under the authority delegated in this section shall become effective only if it complies
43 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
44 This section and chapter 536 are nonseverable and if any of the powers vested with the
45 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
46 disapprove and annul a rule are subsequently held unconstitutional, then the grant of

47 rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid
48 and void.

210.762. 1. **(1)** When a child is taken into custody by a juvenile officer or law
2 enforcement official under subdivision (1) of subsection 1 of section 211.031 and initially
3 placed with the division, the division may make a temporary placement and shall arrange for
4 a family support team meeting prior to or within twenty-four hours following the protective
5 custody hearing held under section 211.032. After a child is in the division's custody and a
6 temporary placement has been made, the division shall arrange an additional family support
7 team meeting prior to taking any action relating to the placement of such child; except that,
8 when the welfare of a child in the custody of the division requires an immediate or emergency
9 change of placement, the division may make a temporary placement and shall schedule a
10 family support team meeting within seventy-two hours. The requirement for a family support
11 team meeting shall not apply when the parent has consented in writing to the termination of
12 his or her parental rights in conjunction with a placement in a licensed child-placing agency
13 under subsection 6 of section 453.010.

14 **(2) An agency or placement provider with legal custody of a child shall ensure a**
15 **missing child report is filed once the agency or placement provider determines that a**
16 **child in the agency's or placement provider's custody is missing. Within seventy-two**
17 **hours of a missing child report being filed for a child placed in an authorized agency or**
18 **foster care or within seventy-two hours of an authorized agency or foster care being**
19 **notified that a child under its custody is missing, whichever event first occurs, a family**
20 **support team meeting shall be held to discuss the whereabouts of the missing child and**
21 **to discuss the initial decision regarding the custody and placement of the missing child**
22 **once the child is found. If the missing child is brought back into custody, another family**
23 **support team meeting shall be held as provided under this section. Any agency or**
24 **placement provider with legal custody of a child who goes missing that fails to comply**
25 **with the provisions under this subdivision shall be liable to the injured party, which**
26 **includes the missing child, parent, foster parent, or legal guardian of the missing child,**
27 **and the state of Missouri, in an action at law and subject to a civil penalty of fifty**
28 **thousand dollars per occurrence.**

29 2. The parents, the legal counsel for the parents, the foster parents, the legal guardian
30 or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and
31 any designee of the parent that has written authorization shall be notified and invited to
32 participate in all family support team meetings. The family support team meeting may
33 include such other persons whose attendance at the meeting may assist the team in making
34 appropriate decisions in the best interests of the child. If the division finds that it is not in the
35 best interest of a child to be placed with relatives, the division shall make specific findings in

36 the division's report detailing the reasons why the best interests of the child necessitate
37 placement of the child with persons other than relatives.

38 3. The division shall use the form created in subsection 2 of section 210.147 to be
39 signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming
40 that all involved parties are aware of the team's decision regarding the custody and placement
41 of the child. Any dissenting views must be recorded and attested to on such form.

42 4. The case manager shall be responsible for including such form with the case
43 records of the child.

44 **5. As used in this section, "family support team" means a team who may consist**
45 **of a youth if the youth is twelve years of age or older, parents, legal counsel for the**
46 **parents, resource providers, the legal guardian for the child, the juvenile officer, the**
47 **guardian ad litem, the court appointed special advocate, up to two youth-chosen**
48 **advocates for a youth twelve years of age or older, and individuals invited by the**
49 **parents. The team meets for the purpose of determining the following:**

50 **(1) The safety of the child;**

51 **(2) A comprehensive visitation plan for parents, siblings, and family members;**

52 **(3) Service and treatment needs;**

53 **(4) The need for placement and developing a plan for reunification or other**
54 **permanency options, including a projected date for permanency;**

55 **(5) The appropriate placement of the child;**

56 **(6) The child's access and opportunities for normalcy activities based on the**
57 **reasonable and prudent parenting standard;**

58 **(7) An educational plan for the child;**

59 **(8) The case plan, which includes establishing and revising the case plan; and**

60 **(9) Compliance with the case plan and progress toward alleviating or mitigating**
61 **the causes necessitating placement in foster care.**

210.795. A case worker shall notify a juvenile officer if a child goes missing or is
2 **suspected of being on the run. Once the juvenile officer is notified, the officer shall file**
3 **with the court a notice in the child's case file that states the child is missing and include**
4 **any other relevant information, which shall include the missing child report. If the**
5 **missing child is found, the juvenile officer shall file with the court a notice in the child's**
6 **case file that the child has been found and include any other relevant information.**

 568.045. 1. A person commits the offense of endangering the welfare of a child in the
2 first degree if he or she:

3 (1) Knowingly acts in a manner that creates a substantial risk to the life, body, or
4 health of a child less than ~~seventeen~~ **eighteen** years of age; or

5 (2) Knowingly engages in sexual conduct with a person under the age of [~~seventeen~~]
6 **eighteen** years over whom the person is a parent, guardian, or otherwise charged with the care
7 and custody;

8 (3) Knowingly encourages, aids or causes a child less than [~~seventeen~~] **eighteen** years
9 of age to engage in any conduct which violates the provisions of chapter 579;

10 (4) In the presence of a child less than [~~seventeen~~] **eighteen** years of age or in a
11 residence where a child less than [~~seventeen~~] **eighteen** years of age resides, unlawfully
12 manufactures, or attempts to manufacture compounds, possesses, produces, prepares, sells,
13 transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

14 2. The offense of endangering the welfare of a child in the first degree is a class D
15 felony unless the offense:

16 (1) Is committed as part of an act or series of acts performed by two or more persons
17 as part of an established or prescribed pattern of activity, or where physical injury to the child
18 results, or the offense is a second or subsequent offense under this section, in which case the
19 offense is a class C felony;

20 (2) Results in serious physical injury to the child, in which case the offense is a class
21 B felony; or

22 (3) Results in the death of a child, in which case the offense is a class A felony.

✓