

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION
P. O. BOX 88

JEFFERSON CITY, MISSOURI

August 7, 2014

What's Inside:2014 Legislative
Session Update

M E M O R A N D U M

TO: REGIONAL DIRECTORS, FIELD SUPPORT MANAGERS, CIRCUIT MANAGERS, AND SUPERVISORS

FROM: TIM DECKER, DIRECTOR

SUBJECT: 2014 LEGISLATIVE UPDATE AND RELATED POLICY REVISIONS

The purpose of this memorandum is to introduce staff to legislation passed in the 2014 legislative session. These changes will go into effect August 28th, 2014. This memorandum includes only the bills and provisions which impact the Division directly or may be of interest to staff. Bills impacting policy and/or procedure which require individual memorandums are also excluded from this list.

Joint Committee on Child Abuse and Neglect ([House Bill 1092](#) and [Senate Bill 869](#))

The Joint Committee on Child Abuse and Neglect was established in SB 628 in the 2012 legislative session. The Committee is composed of seven members of the House and seven members of the Senate with the purpose of looking at Missouri's child protection system and submitting recommendations annually to the General Assembly for legislative action or changes in the internal management or organization of the state or local government agencies and departments. During this legislative session HB 1092 and SB 869 added that the Committee must also make recommendations on how to improve abuse and neglect proceedings. This includes examining the role of the judge, Children's Division, the juvenile officer, the guardian ad litem, and the foster parents. (Section 21.771)

There is no immediate impact to the Children's Division; however, recommendations coming out of this committee could lead to changes in the future.

Office of the Child Advocate ([House Bill 1092](#) and [Senate Bill 869](#))

HB 1092 and SB 869 expand the role of the Office of the Child Advocate (OCA) in court proceedings by allowing OCA to file any pleadings necessary to intervene on behalf of a child in a judicial proceeding, using the resources of the Office of the Attorney General. (Section 37.710)

This legislation will give OCA a stronger voice in court proceedings to advocate for abused or neglected children. The Children's Division does not anticipate an impact to Division practice or policy.

Guardian ad Litem ([House Bill 1092](#) and [Senate Bill 869](#))

In cases where an alleged perpetrator, aggrieved at the determination of the CA/N Review Board, requests a judicial review, this legislation gives the judge the option to appoint a Guardian ad Litem

(GAL) to appear for and represent an abused or neglected child involved in the proceeding. Previously this was a mandatory appointment. (Section 210.160)

Foster Parents ([House Bill 1092](#) and [Senate Bill 869](#))

This legislation allows foster parents with standing to participate in all court hearings pertaining to a child in their care. (Section 211.171)

Criminal Code Revisions ([Senate Bill 491](#))

In Section 210.117, Missouri law prohibits a child, who has been taken into custody, from being returned to the home of a parent or being placed with the parent who has been found guilty of certain crimes, when the child was the victim.

In section 211.038, Missouri law prohibits a child, who is under the jurisdiction of the juvenile court, from being returned to the home of a parent or being placed with the parent who has been found guilty and the child was the victim of this same list of offenses.

Senate Bill 491 modifies these offenses as well as the list of offenses referred to in Section 210.117 and 211.038. This list now includes:

Statute	Description	Statute	Description
<u>When found guilty of a Felony Violation the following offenses apply:</u>		566.206	Trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor
566.030	Rape in the 1st degree	566.209	Trafficking for the purposes of sexual exploitation
566.031	Rape in the 2nd degree	566.212	Sexual trafficking of a child in the second degree
566.032	Statutory rape 1 st degree	566.215	Contributing to human trafficking through the misuse of documentation
566.060	Sodomy in the 1 st degree	<u>When found guilty of any violation the following offenses apply:</u>	
566.061	Sodomy in the 2nd degree	568.020	Incest
566.062	Statutory sodomy in the first degree	568.060	Abuse or neglect of a child, (<u>Applies only when such abuse is sexual in nature</u>)
566.064	Sodomy in the 2nd degree	568.065	Genital mutilation
566.067	Child molestation in the first degree	568.175;	Trafficking in children
566.068	Child molestation in the 2nd degree	573.200	Use of a child in a sexual performance
566.069	Child molestation in the 3rd degree	573.205	Promoting a sexual performance by a child
566.071	Child molestation in the 4th degree	<u>When found guilty of these offenses, which applied prior to August 28th, 2013.</u>	
566.083	Sexual misconduct involving a child	566.040	Sexual Assault
566.100	Sexual abuse in the 1st degree	566.070	Deviate sexual assault
566.101	Sexual abuse in the 2nd degree	566.090	Sexual misconduct 1 st
566.111	Sex with an animal, sexual conduct with an animal.	<u>When found guilty of this offense, which applied prior to August 28th, 2017</u>	
566.151	A person 21 years of age or older commits the offense of enticement of a child	568.080	Child used in sexual performance
566.203	Abusing an individual through forced labor	568.090	Promoting sexual performance by a child, penalties.

Drug Use and Termination of Parental Rights ([Senate Bill 530](#))

In section 211.447.6, current law provides that the juvenile officer or the Children's Division may file a petition to terminate the parental rights of the child's parent when it appears that one or more grounds for termination exist. Subsections (1) through (6) list these grounds. This legislation adds to the list circumstances under which it is presumed a parent is unfit by showing in juvenile court the parent has demonstrated a consistent pattern of specific abuse. The revised list is as follows:

- a. If within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated according to Missouri statute or similar laws of other states; **or**
- b. If the parent is the birth mother and within 8 hours after a child's birth, tested positive and over the legal limit (.08 blood alcohol content) for alcohol, cocaine, heroin, methamphetamine, or a controlled substance or prescription drug, (except those drugs administered to the mother for medical treatment), **and** the birth mother is the biological mother of at least one other child who was adjudicated an abused or neglected minor by the mother **or** the mother has previously failed to complete recommended treatment services by the Children's Division through a family centered services case; **or**
- c. If the parent is the birth mother and at the time of the child's birth or within 8 hours after a child's birth, the child tested positive for alcohol, cocaine, heroin, methamphetamine, or a controlled substance or prescription drug, (except those drugs present in the mother's body as a result of medical treatment), **and** the birth mother is the biological mother of at least one other child who was adjudicated an abused or neglected minor by the mother **or** the mother has previously failed to complete recommended treatment services by the Children's Division through a family centered services case; **or**
- d. Within a three-year period immediately prior to termination adjudication, the parent has pled guilty to or has been convicted of a felony involving the possession, manufacture or distribution of cocaine, heroin or methamphetamine **and** the parent is the biological parent of at least one other child who was adjudicated an abused or neglected minor by such parent **or** such parent has previously failed to complete recommended treatment services by the Children's Division through a family centered services case.

This language is permissive in that the juvenile officer or the Children's Division **may** (or may not) file a petition based on the additional grounds. Although the additional grounds would help build a case for termination, the decision on whether to petition would ultimately be based on the best interest of the child as well as the federal requirements for filing.

If a petition was filed, pursuant to 211.447.6, juvenile court would have the option to act on the petition to terminate parental rights of a parent. The additional grounds may strengthen a case for termination, but ultimately the court's decision is based on what is in the best interest of the child **and** requires clear, cogent and convincing evidence that grounds listed exist.

Educational and Medical Consent for Minors ([Senate Bill 532](#))

This bill allows relative caregivers to consent to medical treatment and educational services for a minor child residing with the relative caregiver either through written consent of a parent or an affidavit if the parent or guardian's consent cannot be obtained through reasonable efforts. Such consent and/or affidavit are only valid while the child resides with the relative and become immediately invalid when the child no longer resides with the relative. This bill provides a one year expiration date on such

authorizations or affidavits.

The parent may rescind the authorization and any affidavit will be considered invalid if the parent rescinds his/her consent so long as the decision does not threaten the life, health, or safety of the child.

The bill also provides immunity to health care providers and school districts from criminal and civil liability for providing such services in good faith.

The bill provides additional avenues for families, specifically relative caregivers, to pursue remedies to meet educational and/or medical needs of a minor child or children residing with them without having to gain legal custody of the minor child or children first, as current law often requires. (Sections 431.058, 431.061, and 431.062)

Safe Care Provider Reimbursement ([House Bill 1092](#), [Senate Bill 869](#) and [House Bill 1231](#))

In section 334.950, this bill requires the Department of Public Safety to establish rules and make payments to SAFE CARE providers who provide forensic examinations of individuals under 18 years of age, who are alleged victims of physical abuse, out of appropriations made for that purpose.

NECESSARY ACTION

1. Review this memorandum with all Children’s Division staff.
2. Review revised Child Welfare Manual chapters as indicated below.
3. All questions should be cleared through normal supervisory channels and directed to:

PDS CONTACT

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QUALITY IMPROVEMENT UNIT MANAGER

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CHILD WELFARE MANUAL REVISIONS

Revised:

Section 7 Chapter 34 [Laws Relating to Custody, Placement and Visitation of Children under the Jurisdiction of Juvenile Court](#)

Section 7 Chapter 34.2 [Sexual Offenses; Crimes Against the Family; and Pornography and Related Crimes](#)

Section 2, Chapter 4, Attachment A [SAFE-CARE \(Sexual Assault Forensic Examination- Child Abuse Resource and Education \) Network](#)

Deleted:

Section 7 Chapter 34.3 Chapter 568 RSMo. Offenses Against the Family

FORMS AND INSTRUCTIONS - N/A

REFERENCE DOCUMENTS AND RESOURCES

[N/A](#)

RELATED STATUTE		
Section 21.771	Section 211.038	Section 431.061
Section 37.710	Section 211.447	Section 431.062
Section 210.117	Section 334.950	
Section 210.160	Section 431.058	
ADMINISTRATIVE RULE - N/A		
COUNCIL ON ACCREDITATION (COA) STANDARDS - N/A		
CHILD AND FAMILY SERVICES REVIEW (CFSR) - N/A		
PROTECTIVE FACTORS - N/A		
Parental Resilience		
Social Connections		
Knowledge of Parenting and Child Development		
Concrete Support in Times of Need		
Social and Emotional Competence of Children		
FACES REQUIREMENTS - N/A		