

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

M E M O R A N D U M

TO: CHILDREN'S DIVISION AND CONTRACTED STAFF  
FROM: DAVID WOOD, DIRECTOR  
SUBJECT: 2020 LEGISLATION AFFECTING CHILDREN'S DIVISION

DISCUSSION:

Two child welfare bills were enacted this year, [HB 1414](#) and [SB 653](#) , with the intent to increase child protection. Although the bills become effective on August 28, 2020, there are some major provisions that allow additional time for implementation, as more fully explained below. Policy changes may be detailed in separate memos, depending on the type of change needed.

**HB 1414** The following sections of law are updated and summarized below: Sections 193.265, 208.151, 210.025, 210.109, 210.112, 210.135, 210.145, 210.150, 210.201, 210.211, 210.221, 210.252, 210.254, 210.566, 210.1080, 211.171, 431.056, and 453.121, RSMo. Two new sections, 210.123 and 211.135 were also created.

**SB 653** enacted eight new sections to improve child welfare, many of which are identical to HB 1414. The two that stand alone from HB 1414 are 210.116 and 210.652.

**Child Abuse and Neglect**

*Reporting to Armed Forces:*

Two of the statutes authorize additional collaboration with the Department of Defense to assist children in military families.

- **210.109** Adds that CANHU has a duty to attempt to determine whether the alleged perpetrator, or anyone responsible for care, custody, and control of the subject child, is a member of the Armed Forces.
- **210.150** Authorizes record release to the Department of Defense (DOD) and mandates that CD disclose findings to a family advocacy program of the DOD when an alleged perpetrator, or anyone responsible for care, custody, and control of the subject child, is a member of the Armed Forces.

FACES changes will be implemented to allow CANHU to flag reports that meet this criteria. A batch report is being developed to send report information from Central Office to the Family Advocacy Programs at Ft. Leonard Wood, Whiteman Air Force Base, and the Missouri National Guard.

#### *Temporary Alternative Placement Agreements (TAPAS)*

Section **210.123**, RSMo., redefines diversions or safety plans out of the home as Temporary Alternative Placement Agreements (TAPAs). This allows the division to create and enter into TAPAs as legally binding, voluntary, time-limited agreements with parents/legal guardians to provide a temporary, out of home placement for a child when the parent/guardian is temporarily unable to care for the child and the child is not otherwise in imminent danger of death, serious bodily injury or sexual abuse. TAPAs must be in writing and can last up to 90 days but may be extended if referred to the Juvenile Officer (JO). The division supervises implementation of the TAPA, and is required to report information to the JO so that the JO can determine independently whether to take action even though a TAPA may have been created. A Team Decision Making (TDM) meeting must be held within ten days and monthly thereafter, and an FCS case must be opened with the family. A worker is required to have at least two visits per month with the child, including one in the placement home. There must be behaviorally specific requirements for the parents and there are other reporting requirements to the JO. This section has delayed implementation and does NOT begin August 28, as it is not effective until regulations are promulgated. A workgroup has been created to begin establishing tasks and time frames for implementation.

#### *Assessment Tools*

Section **210.145**, RSMo., mandates completion of a risk assessment within 72 hours and requires that the CD director and the Office of State Courts Administrator develop a joint safety assessment tool by end of 2020, with implementation during 2021. This jointly developed safety assessment tool will replace the risk assessment currently in use. Workers must complete the risk assessment within 72 hours for all reports of abuse and neglect, to be considered as part of the structured decision making process.

#### *Record Sharing*

Section **210.116**, RSMo., greatly expands the division's ability to share records, information and findings with other federal, state, or local child welfare agencies and law enforcement agencies if the information is necessary to protect a child from CA/N or will assist the agency in providing child welfare services. "Such information may include, but is not limited to, substantiated or unsubstantiated reports of abuse or neglect, family assessments, and any other documents or information the division deems necessary for another agency to have access to in order to protect a child. Identifying information may be shared only if the children's division reasonably believes the receiving entity will prevent the unauthorized dissemination of the information contained therein."

#### *Child Advocacy Centers*

Section **210.135**, RSMo., is directed to Child Advocacy Center (CAC) personnel but is added here for completeness. This section adds CAC employees to those who have immunity for cooperating with a CA/N investigation unless they are acting in bad faith.

## Prevention/Older Youth

### *Access to Services for Homeless Youth*

Three of the new statutes improve the rights of homeless youth to access to resources. A homeless child or youth is defined as a person less than twenty-one years old who lacks a fixed, regular, and adequate nighttime residence, including those in temporary situations caused by economic hardship, including, but not limited to, sharing another's home, sleeping outdoors or in a car, or staying in a shelter.

- Under Section **193.265**, RSMo., parents of a homeless child or youth can obtain copies of birth certificates for the child/youth for free. An unaccompanied youth can also receive his or her own copy for free without a parent or guardian initiating the request. An unaccompanied youth is a homeless child or youth not in the physical custody of a parent or guardian.
- Additionally, under Section **208.151**, RSMo., homeless children/youth can now qualify for MO HealthNet benefits, subject to a state plan amendment approved by Centers for Medicare and Medicaid.
- Section **431.056**, RSMo. adds mental health to the list of services for which minors who are homeless may contract, when certain conditions apply, and grants immunity to persons who contract with those minors for identified services, unless the contractor is grossly negligent or acting willfully/wantonly.

## Foster Care

### *Foster Care Case Management*

Section **210.112**, RSMo., was overhauled regarding requirements for the division's Foster Care Case Management contractors and is one of two sections with some delayed implementation. Those changes include a mandate that by July 1, 2021, the division must promulgate regulations to implement the provisions of this section and those rules must define implementation plans and dates. The new law:

- Requires contractors to be evaluated on criteria based on an evaluation tool developed by the division, in conjunction with a newly created Response and Evaluation Team (RET), and that services to families be tracked and evaluated through QA. Requires the division to commit resources to pursue best opportunities for successful outcomes for children through the least restrictive alternative. Providers are required to prioritize reducing or eliminating residential care through community based programs. The RET's duties include assisting in the creation of the evaluation tool, determining how to aggregate cases, conducting semi-annual review of the tool and metrics, review funds paid to FCCMs, develop and implement provider evaluations, and develop a system for reviewing and working with FCCMs to strengthen performance or respond to contractor requests for assistance. The standards and metrics are to be used to evaluate competitive bids. The RET is to be convened before Jan 1, 2021 and will consist of five division staff members, members from an FCCM from each region, and other child welfare partners designated in statute. Using the metrics created in the evaluation tool, the division will be required to complete monthly data collection and quarterly reports.

- Repeals the language that currently limits the division to contracting with agencies that hold current contracts with the State of Missouri but retains the requirement that the contractor must have a record of providing child welfare services within the state. It also broadens the authority of the division to contract out for other, unspecified services.
- Continues the prohibition regarding contracting out services related to the child abuse and neglect hotline and family assessments to FCCMs
- Deleted geographic references
- Still requires FCCM accreditation be accepted by the division as prima facie evidence of requirements for licensure, but allows the division to require the agency to produce further evidence of qualification for licensure.
- Authorizes payments to providers based upon the reasonable costs of services and allows the RET to review a formula recommended by the division for incentive payments based upon performance/evaluation under the tool metrics.
- Requires CD to consider immediate actions in the best interests of children, including implementing corrective action plans, transferring cases or suspending of new referrals, up to and including terminating the contract, if issues arise with an FCCM.

### *Foster Parent Rights*

Section **210.566**, RSMo., clarifies resource parents' rights. New requirements include that:

1.) The Children's Division and its contractors shall provide prospective and current resource parents written notification of their rights at the time the child is placed. This is already in policy, Section 6 Chapter 3 Subsection 1.3, and confirmed by the signing of the Resource Provider Acknowledgment and Assurances Form, CD-108, at initial licensure and license renewal.

2.) Resource parents should have full access to the child's medical, psychological, and psychiatric records in the possession of division:

At the time of placement, including reports prior to the child coming into care; and

- Continued full access to all records that come into the possession of the division or of which the division becomes aware.
- Access shall include providing information and authorization for resource parents to review or to obtain the records directly from the medical, psychological, or psychiatric services provider.
- A resource parent may decline access to any or all of the child's records.

3.) Resource parents shall not be required to provide supervision for or attend supervised visits between the child and the child's siblings or parents. They may do so if they wish, but shall not be required to do so.

Section **211.171**, RSMo., includes additional protections for resource providers. It creates a mechanism for the resource parents to writ the judge if alleged that the court failed to allow them to be heard at any hearing regarding a child in their care. This section also imposes a duty upon the court to ensure that resource parents have been provided with full access to the child's medical, psychological, and psychiatric records

outlined in 210.566 by asking them about their access at the first hearing where the resource parents are present.

### *Children's Rights*

Section **211.135**, RSMo., was created to ensure that participants are considering the best interests of the child when making determinations about court appearances. This section requires that the court shall order a child to attend court, after considering input from the division and the FST, only if necessary to make a decision, and only after considering the potential trauma to the child and any hardship it might impose on the child or placement provider, considering the needs of the child, the placement providers and other children in the home, in compliance with federal guidelines. As a reminder, federal law requires that at any permanency hearing held with respect to the child, the court should consult, in an age-appropriate manner, with the child regarding the proposed permanency. Additionally, this cannot interfere with child's right to attend a hearing as allowed in the Foster Care Bill of Rights, which says in Section 210.564.3(7), RSMo., that the division shall support all children twelve years of age or older in state custody to attend any hearings pertaining to the child's placement, custody, or care, provided that the child is willing and able to attend such hearings, and that attending such hearings is in the best interests of the child.

### *ICPC*

Section **210.652**, RSMo., authorizes the implementation of a computerized method to allow for electronic exchange of data and documents required by ICPC for interstate placement of children.

### **Adoption**

Section **453.121**, RSMo. redefines identifying/non-identifying information in adoption cases and allows adult adoptees access to all information if parental rights of the adult adoptee's parents were terminated involuntarily.

### **Child Care**

Seven of the statutes address child care facilities.

- Section **210.025**, RSMo., was repealed. This was the section addressing criminal background checks for child care but Section 210.1080, which was enacted in 2018 and amended in 2019, was amended again and expanded, so Section 210.025, RSMo was no longer necessary.
- Section **210.201**, RSMo., redefines child care, child care facility, and related terms to clarify limits on caring for children both in number and by age by any provider operating a facility.
  - Child care is defined as “care of a child away from his or her home for any part of the twenty-four-hour day for compensation or otherwise. Child care is a voluntary supplement to parental responsibility for the child's protection, development, and supervision.” See 210.201(2), RSMo
  - Child-care facility or child care facility is defined as “a house or other place conducted or maintained by any person who advertises or holds himself or herself out as providing child care for any part of the twenty-

four-hour day for compensation or otherwise if providing child care to more than:

(a) Six children; or

(b) Three children under two years of age.” See 210.201(3), RSMo

- Section **210.211**, RSMo. aligns with definitions in Section 210.201 to clarify license-exempt organizations. Children’s Division case management staff should pay particular attention to license-exempt child care facilities, to ensure children have appropriate and monitored child care. It is unlawful for anyone to operate a child care facility without a license granted by the Department of Health and Senior Services (DHSS) except for:
  - Any person who is caring for six or fewer children, including a maximum of three children under the age of two, at the same physical address.
  - Children who live in the caregiver’s home and who are school aged do not count in the total number of children.
- Section **210.221**, RSMo., negates the requirement for DHSS to renew child care licenses every two years but maintains that providers have to continue to meet all requirements for licensure. Licenses will be non-expiring but can be suspended, placed on probation, or revoked. DHSS will continue to license child care providers and monitor those licenses. A directory of child care providers, including DHSS notations regarding regulatory compliance, can be found at <https://healthapps.dhss.mo.gov/childcaresearch/>.
- Sections **210.252** and **210.254**, RSMo. simply realign numbers in references to statutes above that were amended.
- Section **210.1080**, RSMo., creates one criminal background check system for perspective child care providers which will be utilized by DHSS and DSS, creating one set of eligibility criteria. Under the prior system, DHSS utilized 210.1080 and DSS used 210.025 to screen applicant child care providers. The newly created definition of “designated department” identifies which agency, DHSS or DSS, is responsible for the background check. Additional crimes have been added to the disqualifying list that extend beyond the federal minimum standards required under 45 CFR § 98.43. This legislation also created the Child Care Background Screening Review Committee which will have representation by DHSS and DSS to issue decisions for administrative reviews of findings of ineligibility for employment or presence at a child care facility. Questions regarding these changes shall be sent to the Early Childhood Unit.

#### **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:

<b>ATTORNEY CONTACT</b> Ellen K. Haynes 573-751-4333 ellen.k.haynes@dss.mo.gov	
<b>CHILD WELFARE MANUAL REVISIONS</b> Multiple	
<b>FORMS AND INSTRUCTIONS</b> N/A	
<b>REFERENCE DOCUMENTS AND RESOURCES</b> N/A	
<b>RELATED STATUTE</b> See above	