|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | MISSOURI DEPARTMENT OF SOCIAL SERVICES  CHILDREN’S DIVISION  **SB 54 REQUEST FOR REVIEW** | | | | | | Return completed form to: | | | Children’s Division  PO BOX 88  Jefferson City, MO 64103-0088  ph • 573-522-8024 • 573-526-3971 fax  Attn: Central Office | | | | |
| *Pursuant to 210.152.3 RSMo., the Children's Division may reopen a case for review at the request of the alleged perpetrator, the alleged victim, or the office of the child advocate if new, specific, and credible evidence is obtained that the Division's decision was based on fraud or misrepresentation of material facts relevant to the Divisions decision and that absent such fraud or misrepresentation the Division's decision would have been different. All proposed documentary evidence you wish to be considered shall be attached to this form so that the Division can determine whether the case may be reopened. Please attach any additional pages necessary to complete the answers to the questions below.* | | | | | | | | | | | | | | |
| CASE INFORMATION | | | | | | | | | | | | | | |
| Case Name | | | | | | | | | Call Number | | Date of Request | | | |
| Child Victim(s) | | | DOB | | | Child Victim(s) | | | | | | | DOB | |
|  | | |  | | |  | | | | | | |  | |
|  | | |  | | |  | | | | | | |  | |
|  | | |  | | |  | | | | | | |  | |
| REQUESTOR INFORMATION | | | | | | | | | | | | | | |
| Name of Requestor | | | | | | | | | Phone Number | | | | | |
| Address | | | | | | | | | | | | | | |
| Requestor’s Relationship to the Case (check the appropriate box) | | | | | | | | | | | | | | |
| Victim | | | | | | Alleged Perpetrator | | | | | | | | |
| Parent/Legal Guardian of the Victim | | | | | | Office of the Child Advocate | | | | | | | | |
| Describe in detail the nature of the evidence. | | | | | | | | | | | | | | |
| Describe in detail how this evidence is new, specific and credible. | | | | | | | | | | | | | | |
| If this evidence existed prior to the date of the Division’s final decision, describe in detail why you could not have produced this evidence prior to the issuance of the final decision. | | | | | | | | | | | | | | |
| Describe in detail how this evidence makes the Division’s decision based on fraud or misrepresentation of material facts. | | | | | | | | | | | | | | |
| State the reason you believe that the Division’s conclusion would have been different if the information had been known when the final decision was made. | | | | | | | | | | | | | | |
| Describe how and when you obtained this information. (include sources and contact information) | | | | | | | | | | | | | | |
| Additional Information: | | | | | | | | | | | | | | |
| Requestor’s Signature | | | | | | | | | | | | Date | | |
| **For Central Office Use Only** | | | | | | | | | | | | | | |
| Criteria Met – Sent to | |  | | | County on | | |  | | for investigation. | | | | |
|  | |  | | |  | | |  | |  | | | | |
| Does not meet screening criteria. (Explain) | | | |  | | | | | | | | | |  |
|  | | | |  | | | | | | | | | |  |
| Delayed response - Final determination has not been reached | | | | | | | | | |  | | | |  |
|  | | | | | | | | | |  | | | |  |
| Court Adjudicated – Not available for Review | | | | | | | | | | | | | | |
| Additional Information: | | | | | | | | | | | | | | |
| Required Action (if appropriate) | | | | | | | | | | | | | | |
| Central Office Signature | | | | | | | | | | | | Date | | |
|  | | | | | | | | | | | |  | | |

**Senate Bill 54 Request for Review**

**History**

On August 28, 2011, Senate Bill 54, known and cited as the “Amy Hestir Student Protection Act” went into effect. Pursuant to 210.152.3 RSMo., the Children's Division may reopen a case for review at the request of the alleged perpetrator, the alleged victim, or the Office of the Child Advocate if new, specific, and credible evidence is obtained that the Division's decision was based on fraud or misrepresentation of material facts relevant to the Division’s decision and that absent such fraud or misrepresentation the Division's decision would have been different.

**Purpose**

The (*CD-SB54) Senate Bill 54 Request for Review* is a form initiated by the person requesting the review and completed by CD Central Office during the screening process.

**Criteria for Reopening a Case for Review**

1. *Who May Request that a Case be Reopened for Review?*

* The alleged perpetrator;
* The alleged victim;
* The alleged victim's parent, legal custodian, or legal guardian if the victim is under age 18; or
* The Office of the Child Advocate.

1. *What types of cases are accepted for review?*

Only investigations with a final determination may be reopened for review. A final determination is:

* Preponderance of the evidence findings in which notification of the determination has been sent to the alleged perpetrator and sixty (60) days has elapsed without the perpetrator requesting an appeal.; or
* Preponderance of the Evidence findings, in which the alleged perpetrator has requested an appeal, the CA/N Review Board has overturned the Division’s Decision and notification has been sent.
* Preponderance of the evidence findings in which the alleged perpetrator has filed an appeal, the CA/N Review Board has upheld the Division’s Decision, notification has been sent, and sixty (60) days has elapsed without the perpetrator requesting a trial de novo in the appropriate circuit court.
* Unsubstantiated findings by the Division; and notification has been sent.

1. *Timeframe for making a request*

* Requests can be accepted from the date of the Division’s final determination up to one (1) year.
* If a request is made to reopen a case for review and a final determination has not been made, screening to review the case will be delayed until the determination is final.
* If a case is pending before a court of this state; or a court has entered a final judgment after de novo judicial review pursuant to section 210.152, it will not be eligible for review.

1. *Criteria for accepting a SB 54 Review*

* Evidence obtained must be new, specific, and credible that the Division's decision was based on fraud or misrepresentation of material facts and that absent such fraud or misrepresentation the Division's decision would have been different.
* Fraud means that evidence relied upon by the Division to make its final decision was based upon untruthful or fabricated evidence. The requestor must demonstrate that he or she was not at fault, negligent or inattentive to the case.
* A material fact is a fact that if known would have changed the outcome of the Division’s final determination, but was not known at the time due to that particular fact being represented falsely, incorrectly or improperly. The requestor must show that he or she was not at fault, negligent or inattentive when the misrepresentation of material fact was made or to the case.
* The basis for reopening a case for review shall not be based on any information which the person requesting the review knew, should have known, or could by the exercise of reasonable care have known before the date of the Division's final decision, unless the person shows by a preponderance of the evidence that he or she could not have provided such information to the Division before the date of the Division's final decision.
* Failure to understand the consequences of the Division’s final decision does not qualify as a ground to reopen a case for review. A case will not be reopened on the basis that the requestor failed to timely request administrative or judicial review of the Division’s final decision.

**Completion of the CD-SB54**

* The requestor will fill out as much case data as they know as well as the requestor’s contact information.
* The requestor will answer the questions pertaining to the case and the alleged fraud or misrepresentation of material fact, with as relevant detail as possible.
* The requestor signs the document and mails or faxes the form to CD Central Office to be logged and screened.
* Central Office will check the appropriate outcome.
* Central Office will determine the appropriate remedy depending on the circumstances.
* The requestor shall be notified of the action taken

|  |
| --- |
| **Section 210.152 RSMo., provides that other than the office of the child advocate, any person who makes a request to reopen a case for review based on facts which the person knows to be false or misleading or who acts in bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity from any liability, civil or criminal, for providing the information and requesting that the division reopen the investigation and is guilty of a class A misdemeanor.** |