

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

August 28, 2009

M E M O R A N D U M

What's Inside: 2009 Legislation

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, DIRECTOR

SUBJECT: 2009 LEGISLATION

The purpose of this memorandum is to introduce legislation that was passed in the 2009 legislative session that will impact the Children's Division. These provisions will become effective on August 28th, 2009.

House Bill 154

"Foster Care Education Bill of Rights" (Sections 167.018, 167.019 and 210.1050);

Foster Care Educational Bill of Rights is actually addressed in House Bill 154 as well as Senate Bill 291. The intent of these provisions is to minimize the disruption to the educational needs of foster children brought about by being involved in the foster care system. This bill:

- Requires school districts to designate a staff person as the educational liaison for foster children. The liaison shall do the following in an advisory capacity:
 - Ensure and facilitate the proper educational placement, enrollment in school and checkout from school of foster children;
 - Assist foster care pupils when transferring schools by ensuring proper transfer of credits, records and grades;
 - Request school records within two business days of a foster child in a school; and
 - Submit records of a foster child within three business days of receiving a request for school records.
- Requires child-placing agencies to promote educational stability by considering the child's school attendance area when making placement decisions. The foster child has the right to remain enrolled in and attend their school of origin pending resolution of school placement disputes. (Children's Division's policy currently addresses this issue in Section 4 Chapter 7.2 of the Child Welfare Manual.)
- Provides that each school district shall accept for credit full or partial course work satisfactorily completed by a pupil attending public school or nonsectarian school according to district policy.

- Provides that if a pupil completes graduation requirements while under juvenile court jurisdiction, the district shall issue the pupil a diploma from the school the pupil last attended.
- Prohibits the school district from lowering the grade of a foster child if the child is absent from school due to a change in placement or due to a court appearance. Grades and credits shall be calculated as of the date the pupil left school.
- Gives school districts the authority to authorize access of a pupil's school records to any child placing agency to fulfill educational case management requirements.

Positive Impact

- Improves educational continuity for foster children.
- Foster children get credit for work completed.
- More timely transfer of records of foster children.
- Makes districts accountable for assuring smoother transitions for foster children by creating a point person to be the Foster Care Liaison.
- Assures children in residential treatment are getting a full day of school.
- We anticipate better overall educational successes for foster children.

Grandparent Preference for Emergency or Regular Foster Placement (Section 210.305 and 210.565);

Current law requires the Children's Division to give preference to relatives when considering emergency placement options and foster placement in non-emergency situations.

This bill modifies these provisions to give grandparents first consideration before other relative options. It requires an immediate diligent search for grandparents once a decision has been made to take protective custody of a child during the first three hours after placement, but requires the search for grandparents or other relatives to continue while the child is in care. As required by current law, background screening still applies to grandparents and other relatives, prior to placement and a determination of best interest of the child. These provisions require the Division to document in writing if the determination is made not to place a child with grandparents as to the reasons the placement is not in the best interest of the child.

Positive Impact

- Foster placement is less traumatic when a child can be placed with relatives.
- Children have an established emotional attachment with grandparents.
- Grandparents provide excellent support and are valuable members of the family support team as families work toward the goal of reunification.
- It is important to have grandparents involved early in the process, in case it is necessary to look toward permanency options other than reunification.

The Consideration of a Child's Wishes about Foster Placement or Adoption (Section 210.565.7 and Section 453.030)

In section 210.565.7, this bill directs the guardian ad litem to ascertain the child's wishes and feelings about his or her placement by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be

considered in determining placement, but shall not supersede the preference for relative placement created by this section or be contrary to the child's best interest.

In section 453.030.2, this bill directs the guardian ad litem, in cases involving a child under fourteen years of age, to ascertain the child's wishes and feelings about his or her adoption by conducting an interview or interviews with the child, if appropriate based on the child's age and maturity level, which shall be considered by the court as a factor in determining if the adoption is in the child's best interests.

Positive Impact

- Foster children should have a voice in placement decisions.
- Makes GALs accountable for interviewing foster children and making the child's wishes available to the court for consideration.

Standby Guardianship (Section 475.010, 475.046, and 475.105)

This bill allows a custodial parent of a minor, or the parent of an incapacitated adult who has been appointed guardian of such person, to designate a person to act as a standby guardian by will or separate written instrument. If a parent who has designated a standby guardian is or becomes seriously ill, the parent or designated standby guardian may file a petition in the probate court seeking appointment of the person as the standby guardian. The petition must be filed with a copy of the will or written instrument designating the standby guardian, with the consent to act as standby guardian by the person so designated. The court shall determine appointment of a standby guardian in accordance with the best interests of the minor or incapacitated person after considering all relevant factors.

Additionally this bill provides that the authority of the person to act as standby guardian shall take effect if the person has previously been appointed by the court as a standby guardian, or, if the person has not yet been appointed, if the consent of the parent is given in a written instrument, if an entry of an order adjudicating the parent as incapacitated has been entered, or if the custodial parent dies, whichever first occurs. The standby guardian must notify the court within ten days after he or she begins acting as standby guardian, and within sixty days, must petition the court for appointment as a standby guardian or for another qualified person to be guardian for the minor or incapacitated person

Nothing in this proposed legislation shall be construed to deprive a parent of his or her legal rights with respect to a minor or incapacitated person who is a child of that parent including court ordered visitation with the child, or to authorize a grant of authority to a standby guardian which would supersede any such rights. In addition, nothing in the legislation shall be construed to relieve a parent of his or her legal obligations or duties to a minor or incapacitated person who is a child of that parent, including a duty to support the child in accordance with a court or administrative order.

Positive Impact

- Provides more specific guidelines to the court for appointing temporary guardians to minors and incapacitated persons.
- Makes a clear distinction between guardians, standby guardians and limited guardians.

House Bill 863

(Chapter 491, RSMo)

HB 863 creates the "Child Witness Protection Act" which pertains to children under the age of 14 or at the discretion of the court for children 15 to 17 years of age, who are required to testify in criminal proceedings as victims or witnesses to certain crimes. The intent of this bill is to minimize the trauma of testifying in court; to assure the child has a clear understanding of his or her rights and responsibilities in court; and to make certain allowances for the child during testimony to reduce the confusion and intimidation of a criminal proceeding that may hinder the child's ability to provide clear, accurate and credible testimony to the court. Provisions in this bill include:

- The court shall ensure that the oath be given to a child in a manner that the child may fully understand his or her duty to tell the truth, that questions are stated in a form which is appropriate for the age of the child, and that questions are explained to the child if necessary in order for him or her to understand;
- The court may allow the child to testify at a time of day when the child is best able to understand the questions asked of him or her and to allow testimony to be in limited duration;
- Allows the child when testifying to have a comfort item such as a toy, blanket, or similar item;
- Allows the child to have a support person present and in close proximity during his or her testimony to provide emotional support;
- Requires the court to prevent intimidation or harassment of the child by the parties or attorneys; and
- Allows the court to order comfortable accommodations for the child which can include adjusting the courtroom layout, conducting the proceedings outside of a courtroom, or relaxing the formalities of the proceedings.

Positive Impact

- Minimizes the trauma of testifying in court. By the time the court hearing commences, these child victims are already undergoing treatment due to abuse. These provisions may help to prevent or minimize any setbacks in the treatment process by having to testify to the victimization.
- Assures the child has a clear understanding of any required oath and his or her duty to tell the truth.
- Testimony by a child victim or witness is more likely to be accurate and credible if the child is less stressed or confused. Particularly sexual abuse situations are adult in nature and children do not have the vocabulary to explain what happened. They may be easily confused by terminology they do not understand. This bill attempts to create a less stressful, intimidating situation for children in order to get accurate information.

House Bill 481

HB-481 modifies various provisions related to courts and judicial proceedings. Provisions that relate to; or have some impact on the Children's Division are as follows:

Tuition and Fee Waiver for Children who have been in Foster Care (Section 173.270)

In section 173.270, this legislation requires the Coordinating Board for Higher Institutions to make provisions for institutions under the board's jurisdiction to award tuition and fee waivers for undergraduate courses at state institutions of higher education for any incoming freshman beginning in the 2010 fall semester or term. This funding is dependent annually on budget appropriations. The first fiscal year this would be applicable would be fiscal year 2011. Other eligibility criterion the student must meet is that he or she must:

- Be a resident of Missouri,
- Has graduated within the previous three years from high school or passed the GED examination,
- Was in foster care or other residential care under the Department of Social Services on or after:
 - The day preceding their eighteenth birthday,
 - The day of the student's fourteenth birthday, if the student was eligible for adoption on or after that day, or
 - The day the student graduated from high school or received a GED.

The applicant must also apply to and be accepted at the institution not later than the third anniversary of the date the applicant was discharged from foster or residential care; or the date the applicant graduated from high school; or the date the applicant received the GED, whichever is earlier; or the applicant's twenty-first birthday.

The applicant is also required to apply for other student financial assistance, other than student loans, in compliance with federal aid financial rules, including the Pell grant. The applicant must also apply to the coordinating board for a determination of eligibility using forms and in a manner as prescribed by rule of the coordinating board.

The applicant shall complete a minimum of 100 hours of community service or public internship within a twelve-month period beginning September first for each year the student receives the waiver and as determined by the Department of Higher Education and participating state institutions.

The tuition waiver shall be awarded on an annual basis, subject to appropriation, and as long as the student remains in good academic standing at the state institution. The institution shall monitor compliance and report to the Department of Higher Education. The waiver may be used for no more than four years of undergraduate study and only after other financial aid sources dedicated solely to tuition and fees are exhausted.

Positive Impact

- This legislation would allow youth exiting foster or other residential care, who lack financial support from their birth parents, to obtain higher education.
- It will allow youth opportunities to achieve independence and to set goals for their future.
- Youth who take advantage of the tuition waiver may be less likely to be dependent on the welfare system as adults.

International Abduction (Sections 452.426)

In sections 452.426, this bill provides that if the judge in a child custody proceeding determines that there is potential risk of international abduction of the child by either party, the judge may place any restraints on the parties or grant any remedies to either party that is necessary.

Positive Impact

- Provides the court the authority and flexibility to order measures to prevent international abduction.

UCCJEA - "Uniform Child Custody Jurisdiction and Enforcement Act" (Sections 452.700 - 452.930, RSMo)

This bill repeals the Uniform Child Custody Jurisdiction Act and establishes in its place, the Uniform Child Custody Jurisdiction and Enforcement Act. (Sections 452.700 - 452.930, RSMo) The act specifies the procedures, priorities, and factors to be considered in initial custody jurisdiction determinations, continuing jurisdiction determinations, modification of custody determinations, and emergency orders.

Positive Impact

- Provides uniform procedure across state jurisdictions
- Promotes communication and collaboration between Missouri courts and other state jurisdictions
- Creates better procedures for sharing information between Missouri courts and other state jurisdictions
- Creates procedures for determining jurisdiction between Missouri courts and other state jurisdictions.

Adult Orders of Protection (Section 455.010)

In section 455.010, this bill changes the definition of an adult as used in filing adult orders of protection from eighteen years of age to seventeen years of age or older.

Positive Impact

- Gives individuals between the ages of 17 and 18 an avenue to seek court ordered protection.

SB-291

SB-291 contains several provisions related to Education. Provisions that will affect the Children's Division are as follows:

Foster Care Education Bill of Rights (See discussion in HB 154)

Missouri Preschool Plus Grant Program (Section 162.1168)

In section 162.1168, the "Missouri Preschool Plus Grant Program" allows for up to 1,250 preschool age children to receive quality preschool services. Families receiving these services through eligible grantees whose income is less than 130% of the federal

poverty guidelines will receive these services for free. These are children who may have otherwise participated in the child care subsidy program however the subsidy program has eligibility criteria not addressed in this program.

Compulsory School Attendance Age (Section 167.031)

In section 167.031, this bill changes the requirement for compulsory school attendance age from children between the ages 7 and 16 to children between the ages of 7 and 17 or any child who has successfully completed 16 credits toward high school graduation.

In addition, for purposes of home schooling, this act defines a completed credit towards high school graduation as one hundred hours or more of instruction in a course. Home school education enforcement and records will be subject to review only by the local prosecuting attorney.

Impact of the Change of Compulsory Attendance Age on the Children's Division

The change to the compulsory attendance age will require the following modifications to educational neglect policy and procedure:

- Calls to the Child Abuse/Neglect Hotline for allegations of educational neglect may be accepted as reports for children up to the age of 17.
- If credible information such as from a school reporter who has verified that the subject child has completed 16 credits toward graduation, the report will be screened out.
- Criteria to screen out calls that are truancy rather than educational neglect will continue to be used.
- It is anticipated that many reporters to the child abuse neglect hotline may not have information available at the time of the call about the child's credit toward graduation. In such cases the call will be screened in as a report; however, the family assessment/investigation worker will need to verify the child's academic credit status with the school early in the process in order to determine whether the report meets the criteria for educational neglect.
- If a family assessment/investigation worker verifies with the school district that an alleged victim of educational neglect has completed 16 credit hours toward graduation, and there are no other allegations of abuse neglect regarding any child in the household, the report may be concluded as an inappropriate report.

Positive Impact

- The intent of these provisions is to shift the focus to course work completion rather than a specific age in which the child is no longer required to attend. This may in turn improve the quality of work the child completes and that the sense of accomplishment may encourage more children to graduate.

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 Randall D. McDermit 573-751-8932 Randall.D.McDermit@dss.mo.gov	PROGRAM MANAGER Amy L. Martin (573) 751-3171 Amy.L.Martin@dss.mo.gov
---	---

CHILD WELFARE MANUAL REVISIONS

Section 7, [Glossary/Reference](#)

Section 2, Chapter 8, Subsection 2 [Educational Neglect Guidelines for Reporting by Schools](#)

Section 4, Chapter 4, Subsection 2 [Guidelines for Initial Placement Resource Selection](#)

Section 4, Chapter 4, Subsection 5 [Selecting the Placement Resource](#)

Section 4, Chapter 4, Attachment A [Locating the Non-custodial Parent](#)

Section 4, Chapter 4, Attachment B [Guidelines to Placement Options, Criteria and Selection](#)

Section 4, Chapter 7, Subsection 1 [Begin Work with the Family/Child\(ren\)](#)

Section 4, Chapter 7, Subsection 2 [Family Support Team Meeting](#)

Section 7, Chapter 32 [Educational Neglect](#)

2009 LEGISLATION

[HB 154](#)

[HB 481](#)

[HB 863](#)

[SB291](#)

REFERENCE DOCUMENTS AND RESOURCES

Department of Elementary and Secondary Education web pages:

[Compulsory Attendance](#)

[Graduation Requirements](#)

RELATED STATUTE

"Foster Care Education Bill of Rights" (Sections 167.018, 167.019 and 210.1050);

Grandparent preference for emergency or regular foster placement (Section 210.305 and 210.565);

The consideration of a child's wishes about foster placement (Section 210.565.7) or adoption (Section 453.030);

International Abduction (Sections 452.426)

UCCJEA - "Uniform Child Custody Jurisdiction and Enforcement Act" (Sections 452.700 - 452.930, RSMo)

Adult Orders of Protection (Section 455.010)

Standby Guardianship (Section 475.010, 475.046, and 475.105)

House Bill 863 (Chapter 491, RSMo)

Missouri Preschool Plus Grant Program (Section 162.1168)

Compulsory School Attendance Age (Section 167.031)

ADMINISTRATIVE RULE

N/A

COUNCIL ON ACCREDITATION (COA) STANDARDS

[S21.2.01](#) 7th Edition COA Standards

[FC6.03](#) 8th Edition COA Standards

CHILD AND FAMILY SERVICES REVIEW (CFSR)

[Item 6, Stability of Foster Care Placements](#)

[Item 14, Preserving Connections](#)

[Item 21, Education Needs of the Child](#)

PROTECTIVE FACTORS

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