

## DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

<b>What's Inside:</b> 2011 Legislative Update
--

JEFFERSON CITY, MISSOURI

September 13, 2011

**MEMORANDUM**

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

FROM: CANDACE A. SHIVELY, DIRECTOR

SUBJECT: 2011 LEGISLATION UPDATE AND RELATED POLICY REVISIONS

The purpose of this memorandum is to introduce legislation that was passed in the 2011 legislative session that will either directly or indirectly impact the Children's Division. These provisions became effective on August 28th, 2011.

**"AMY HESTIR STUDENT PROTECTION ACT"**

[Senate Bill 54](#) creates the "Amy Hestir Student Protection Act" and establishes the "Task Force on the Prevention of Sexual Abuse of Children". The sections pertaining to the Children's Division of the Department of Social Services are as follows:

**Office of the Child Advocate- Authority**

This bill revises the authority of the Office of the Child Advocate to allow the Child Advocate to file any findings or reports regarding the parent or child with the court and to issue recommendations regarding the disposition of an investigation, which may be provided to the court and the investigating agency. The Office may also mediate between alleged victims of sexual misconduct and school districts. (Section 37.710 RSMo.)

**Children's Division Impact:** No direct impact to the Children's Division Policy.

**Revised Policy:** *Section 2, Chapter 4.5.5* [Office of the Child Advocate](#) will be revised to reflect the changes in authority. (This section was moved from *Section 5, Chapter 2, Attachment B Office of the Child Advocate*)

**Office of the Child Advocate – Mediation Services**

This bill authorizes the Office of the Child Advocate to offer mediation services when requested by both parties when child abuse allegations arise in a school setting. The mediator must not be a mandated reporter of child abuse. No student, parent of a student, school employee, or school district will be required to enter into mediation. If either party does not wish to enter into mediation, mediation will not occur. Procedures for mediation are described in the act. (Section 160.262 RSMo.)

**Children’s Division Impact:** No direct impact to the Children’s Division Policy.

**Revised Policy:** *Section 2, Chapter 4.5.5 [Office of the Child Advocate](#)* will be revised to reflect the addition of mediation services. (This section was moved from *Section 5, Chapter 2, Attachment B Office of the Child Advocate*)

*When a Student Reports Sexual Misconduct by a Teacher or Other School Employee*

This bill provides that if a student reports alleged sexual misconduct by a teacher or other school employee, the employee and the school district superintendent must forward the allegation to the Children's Division within 24 hours, to be investigated by the Division. The school district may investigate the allegations for purposes of determining the accused employee's employment, but not for purposes of determining whether the allegations should be substantiated. (Section 160.261 RSMo.)

Pursuant to [Chapter 566 RSMo](#), *sexual misconduct* is defined as follows:

- 1<sup>st</sup> degree - A person purposely subjects another person to sexual contact without that person's consent.
- 2<sup>nd</sup> degree - A person 1) exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm; 2) has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or 3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.
- 3<sup>rd</sup> degree - A person solicits or requests another person to engage in sexual conduct under circumstances in which he knows that his/her requests or solicitation is likely to cause affront or alarm.

**Children’s Division Impact:** This is current Division policy.

**Revised Policy:** No revision of policy is required.

*Task Force on the Prevention of Sexual Abuse of Children*

This bill creates the “Task Force on the Prevention of Sexual Abuse of Children” cited as "Erin's Law." Task Force members must be individuals who are actively involved in the prevention of child abuse and neglect and child welfare. The Task Force must make recommendations for reducing child sexual abuse and submit a final report with its recommendations to the Governor, General Assembly, and State Board of Education by January 1, 2013. The Task Force may also adopt a policy addressing sexual abuse of children, including a curriculum. (Sections 160.2100 and 160.2110 RSMo.)

**Children’s Division Impact:** It is believed that the “Task Force on the Prevention of Sexual Abuse of Children” will generate productive discussion and recommendations from a multiple agency perspective to address the problem of child sexual abuse.

**Revised Policy:** These provisions will not require changes in policy.

*School District Policy Requirement - Teacher-Student Communication*

This bill requires every school district to develop a written policy concerning teacher-student communication and employee-student communications and prohibits teachers from establishing, maintaining, or using a work-related website unless it is available to school

administrators and the child's legal custodian, physical custodian, or legal guardian. (Section 162.069 RSMo.)

SB 54 also included several sections restricting the ability of teachers to communicate with students and former students on line through social networking websites such as Facebook. The Missouri State Teacher's Association filed a lawsuit challenging the constitutionality of one of the sections in the law. On August 26, 2011, the Circuit Court of Cole County issued a preliminary injunction prohibiting the State from enforcing one of the sub-sections of the law which prohibits teachers from "maintaining a non-work related internet site which allows exclusive access with a current or former student." (See 162.069.4 RSMo.) The injunction will be in effect for 180 days from August 26, 2011. In the mean time the court will decide whether to make its injunction permanent. It is not expected that this will have any impact on DSS/CD.

**Children's Division Impact:** These provisions do not have a direct impact on Children's Division policy; however the intent of legislation is to employ controls or monitor teacher-student communication to assure that it is appropriate.

**Revised Policy:** No policy revision required.

School District Policy Requirement – Training Component for Teachers to Identify Signs of Sexual Abuse

This bill requires each school district to include in its teacher and employee training a component that provides information on identifying signs of sexual abuse in children and of potentially abusive relationships between children and adults, with an emphasis on mandatory reporting. Training must also include an emphasis on the obligation of mandated reporters to report suspected abuse by other mandatory reporters. (Section 162.069 RSMo.)

**Children's Division Impact:** This provision does not impact the Children's Division policy directly; however will benefit the school system to more effectively identify and address situations in which children have been physically or sexually abused.

**Revised Policy:** No policy revision is required.

Background Checks to obtain Teaching Certificate

In order to obtain a teaching certificate, an applicant must complete a background check as provided in section 168.133 RSMo. (Section 168.021 RSMo.)

**Children's Division Impact:** The intent is to tighten the screening process for applicants who would have access to children in the school system.

**Revised Policy:** No policy revision required.

Crimes of Sexual Contact with a Student

This bill adds the crimes of sexual contact with a student while on public school property as well as second and third degree sexual misconduct to the offenses for which a teacher's license or certificate may be revoked. (Section 168.071 RSMo.)

**Children's Division Impact:** This does not impact Children's Division directly, but provides the school system with more means of keeping individuals with a history of sexual offenses out of the school system.

**Revised Policy:** No policy revisions are required.

*Criminal Background Check for School Bus Drivers*

School districts are responsible for conducting the criminal background check on bus drivers they employ. (Section 168.133 RSMo.)

**Children's Division Impact:** This does not impact Children's Division directly, but provides the school system with more means of keeping individuals with a history of sexual offenses out of the school system.

**Revised Policy:** No policy revisions are required.

*Third Party Reporter Immunity from Civil and Criminal Liability who Report to an Employee of a School District*

This bill provides that third-party reporters of child abuse who report an alleged incident to any employee of a school district are immune from civil and criminal liability if the report is made in good faith. (Section 210.135 RSMo.)

**Children's Division Impact:** Protection from third party civil and criminal liability when a report is made in good faith will encourage reporters to report or cause a report to be made if child abuse is suspected.

**Revised Policy:** No policy revision required, however information should be updated in material and training given to mandated reporters.

*Children's Division to provide information about the Office of the Child Advocate*

This bill requires the Children's Division to provide information about the Office of the Child Advocate and services it may provide to any individual who is not satisfied with the results of an investigation. (Section 210.145 RSMo.)

**Children's Division Impact:** This is current Division policy.

**Revised Policy:** No Division Policy is required; however *Section 2, Chapter 4.5.5 [Office of the Child Advocate](#)* is being moved from *Section 5, Chapter 2, Attachment B Office of the Child Advocate*)

*Reopening Concluded Investigations for Review*

This bill modifies section 210.152 RSMo. to allow the Children's Division to 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 resulting in the Division's decision being made 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. (Section 210.152.3 RSMo.)

The Division does not anticipate a large number of cases meeting these criteria; however, the procedure for requesting, screening and conducting "Senate Bill 54 Reviews" has been developed and added to the manual. Additionally, the *Senate Bill 54 Review Request (CD-SB54)*, to initiate the process.

Individuals eligible to request a Senate Bill Review may contact their local office, Central Office or access the CD-SB54 from the Children's Division Eforms webpage. The local CD office or Central Office will give the individual the form or direct the individual to the Eforms website. The requestor is to complete the first section of the form and send the request to Central Office to the attention of Scott Montgomery, Program Development Specialist, to begin the screening/review process.

### **Criteria for Reopening a Case for a SB-54 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.

#### *2. What types of cases are accepted for review?*

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

- Preponderance of the evidence findings in which the alleged perpetrator has let sixty (60) days elapse without requesting an appeal and notification has been sent; or
- Preponderance of the Evidence findings, in which the alleged perpetrator has requested appeal and the CA/N Review Board has either upheld or overturned the Division's Decision and notification has been sent.
- Unsubstantiated findings by the Division; and notification has been sent.

#### *3. Timeframe for making a request*

- Requests are accepted from the point 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.

#### *4. Criteria for accepting a SB 54 Review*

- Information obtained must be new, specific, and credible evidence obtained 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.
- *Material Facts* refer to facts that are "relevant" to the case at hand. Material facts are the facts that have a direct effect on the final determination.

- 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.

5. *Outcome of the Review Process*

- In consultation with the Division of Legal Services, Central Office will make a screening determination and formulate an appropriate plan of action depending on the circumstances of the case.
- The requestor shall be notified of the action taken and final disposition of the case.

This legislation also 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.

**Revised Policy:**

Section 2, Chapter 4.5 [Alleged Perpetrator Appeal Process Overview](#)

Section 2, Chapter 4.5.4 [Senate Bill 54 Review](#)

**Forms and Instructions:**

Senate Bill 54 Review Request (CD-SB54)

Senate Bill 54 Review Disposition Notification (CD-SB54C)

Description of the Investigation (CS-24)

*Statute of Limitations for the Prosecution of Sexual Offenses*

This bill modifies the current statute of limitations for the prosecution of unlawful sexual offenses involving a person eighteen years of age or younger so that such a prosecution must be commenced within thirty years after the victim reaches the age of eighteen. (Section 566.037 RSMo.)

**Children's Division Impact:** This provision does not impact the Division directly, because the Division does not investigate incidents after the victim has turned 18; however this law may prevent a perpetrator from reoffending on future victims.

**Revised Policy:** No Policy revision required.

**FOSTER CARE AND ADOPTION**

[House Bill 604](#) and [House Bill 431](#) contain duplicate provisions related to foster care and adoptive parent recruitment and retention. This legislation establishes the following:

*Foster Care and Adoptive Parents Recruitment and Retention Fund*

These provisions establish the *Foster Care and Adoptive Parents Recruitment and Retention Fund*, which upon appropriation, must be administered by the Department of Social Services and used to grant awards to licensed community-based foster care and adoption recruitment programs. These provisions create a mechanism (tax returns) for collecting the fund and

establish the *Foster Care and Adoptive Parents Recruitment and Retention Board* to administer the fund. (Sections 143.1015 RSMo. and 453.600 RSMo.)

**Children’s Division Impact:** This fund will potentially create more opportunities to promote foster care and adoption recruitment programs which could increase the number of much needed foster care and adoptive placements for children in the state’s custody.

**Revised Policy:** This legislation will not require changes in policy.

*Task Force on Foster Care Recruitment, Licensing, and Retention*

These provisions require that the Children’s Division convene a task force to review the recruitment, licensing and retention of foster and adoptive parents statewide. The taskforce shall include representatives from the Children’s Division; the Department of Social Services; and representatives from the private sector and faith-based community who provide recruitment and licensure services. The purpose of the task force will be to study the extent to which changes in the system of recruiting, licensing, and retaining foster and adoptive parents would enhance the effectiveness of the system statewide. Findings and recommendations will be forwarded to the General Assembly and to the Governor by December 1, 2011. (Section 210.112 RSMo.)

**Children’s Division Impact:** The Children’s Division is required to convene this taskforce. No policy impact at this time, however depending on the findings/recommendations, this information may lead to improvements and policy revisions in the future.

**Policy Revision:** No policy revision is required.

*Access to Foster Home Records*

Current law provides that any parent or legal guardian may have access to investigation records kept by the Division regarding a decision for the denial of, or the suspension or revocation of, a license to a specific person to operate or maintain a foster home if such specific person does or may provide services or care to a child of the person requesting the information. The Children’s Division is required to include information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home. This bill specifies “only” information pertaining to the nature and disposition of any denial, suspension or revocation of a license to operate a foster home, shall be provided in this response. (Section 210.498 RSMo.)

**Children’s Division Impact:** Current policy, Section 4, Chapter 2.6.1 [Out-of-Home Care Provider Records](#) , designates responsibility of determining whether license suspension or revocation information may be released to the Division of Legal Services (DLS) under section 210.498 RSMo.

**Revised Policy:** Division policy revision is not required.

*Foster Placement Order of Preference*

This bill establishes an order of preference for placement of a child as follows:

1. Grandparents and relatives;
2. A trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child; and
3. Any foster parent who is currently licensed and capable of accepting placement of the child. (Section 210.565 RSMo.)

**Children's Division Impact:** These provisions clearly specify in statute a general order of preference for the placement of the child. Deviation from this order, because a placement is contrary to the best interest and safety of the child, must be clearly documented.

**Revised Policy:** 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 B Guidelines to Placement Options, Criteria and Selection (This section is deleted. The content has been integrated into Section 4, Chapter 4, Subsection 2 [Guidelines for Initial Placement Resource Selection](#))

### Sibling Placement

This bill requires the Children's Division to make reasonable efforts to place siblings in the same foster care, kinship, guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the Children's Division is required to make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being. (Section 210.565 RSMo.)

**Children's Division Impact:** This is current Children's Division policy, however statutory references have been added to policy.

**Revised Policy:**

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

Section 4, Chapter 7, Attachment D, [Sibling Placement Guidelines](#)

### Expedited Foster Care License

This bill adds that any person receiving a preference may be licensed in an expedited manner if the child is placed in such person's care. This includes a trusted adult that has a preexisting relationship with the child, such as a godparent, teacher, neighbor, or fellow parishioner who voluntarily agrees to care for the child. (Section 210.565 RSMo.)

**Children's Division Impact:** This bill gives the Division discretion to expedite licensing to persons receiving a preference if appropriate.

**Revised Policy:** This will not require Division policy revision.

### Missouri State Foster Care and Adoption Board

These provisions establish in statute the "Missouri State Foster Care and Adoption Board", which shall provide consultation and assistance to the Department and shall draft and provide an independent review of the Children's Division policies and procedures related to the provision of foster care and adoption in Missouri. Additionally, the board shall determine the nature and content of in-service training which shall be provided to foster and adoptive parents in order to improve the provision of foster care and adoption services to children statewide consistent with section 210.566 RSMo.. (Section 210.617 RSMo.)

**Children’s Division Impact:** The Missouri State Foster Care and Adoption Board is already active. The partnership between the Missouri State Foster Care and Adoption Board and the Division, has always been valuable in the development of Division policy, recruitment and retention efforts and in-service training.

**Revised Policy:**

Section 1, Chapter 3, Attachment A, [Foster Parent Bill of Rights and Responsibilities](#)

## **ADOPTION RECORDS**

[Senate Bill 351](#) modifies provisions regarding adoption records.

- This bill modifies current law to allow the adopted adult's lineal descendants to receive non-identifying information concerning undisclosed biological parents or siblings if the adopted adult is deceased. "Lineal descendants" include adopted children and their descendants. (Section 472.010 RSMo.)
- This bill allows lineal descendants if the adopted adult is deceased, to request identifying information of the undisclosed biological parents from the circuit court having original jurisdiction.
- This bill provides that consent from the adoptive parent is no longer required when the adopted adult is requesting identifying information of the biological parent.
- If a biological parent authorizes the release of information or if a biological parent is found to be deceased, the court shall disclose the identifying information as to that biological parent to the adopted adult as long as the other biological parent is 1) unknown; 2) known but cannot be found and notified; 3) deceased; or 4) has filed with the court an affidavit authorizing the release of information.
- This bill provides that adopted adults may obtain identifying information on adult siblings with the sibling's consent without the court having to find that such information is necessary for health-related purposes. (Section 453.121 RSMo.)

**Children’s Division Impact:** This bill generally extends the rights and circumstances in which an adopted adult’s lineal descendants can receive identifying or non-identifying information about the adopted adult’s biological parents or siblings.

**Revised Policy:** Section 4, Chapter 26, subsection 3 [Guidelines for Determining Grounds or Triggering Events for Termination of Parental Rights](#)

Section 5, Chapter 2, subsection 6 [Out-of-Home Care Provider Records](#)

## **THE MISSOURI TASK FORCE ON PREMATURETY AND INFANT MORTALITY**

[House Bill 555](#) contains provisions to establish the “Missouri Task Force on Prematurity and Infant Mortality” within the Children’s Services Commission. Designates members, duties and requires the taskforce to submit a report on findings to the Governor and General Assembly on or before December 31, 2013. (Section 210.105 RSMo.)

**Children’s Division Impact:** These provisions may provide information to address problems related to prematurity and infant mortality, which may lead to improvements and policy revisions in the future.

**Revised Policy:** No policy revisions required.

## **RIGHTS OF INDIVIDUALS WITH DISABILITIES OR DISEASE**

[House Bill 555](#), [House Bill 604](#) , and [House Bill 648](#) contain duplicate provisions related to rights of individuals with disability or disease. The sections pertaining to the Children’s Division are as follows:

### **Removal of a Child from a Parent’s Custody**

The bill specifies that the disability or disease of an individual cannot be the basis for a determination that a child is in need of care or it is necessary to remove a child from a parent's custody without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child. (Section 211.031 RSMo.)

### **Policy Revisions:**

Section 4, Chapter 1 Attachment A [Assessment Of Safety and Risk Factors In Recommending Out-Of-Home Placement](#)

Section 4, Chapter 1.5 [Factors in Recommending Out-of-Home Care](#)

**Foster Care Licensure** The bill specifies that the disability or disease of an individual cannot be the basis for a determination that an applicant is unfit or not suitable to be a foster parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child or an inability to be a foster parent. (Section 210.496 RSMo.)

### **Policy Revisions:**

Section 6 Chapter 3 Attachment A [Guide for Conducting Resource Provider Family Assessments](#)

### **Termination of Parental Rights**

The bill specifies that the disability or disease of an individual cannot be the basis for a determination for a termination of parental rights without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child. (Section 211.447 RSMo.)

### **Policy Revisions:**

Section 4, Chapter 26.3 [Guidelines for Determining Grounds or Triggering Events for Termination of Parental Rights](#)

### **Adoptions**

The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without specifically showing a causal relationship between the disability, or disease, and a substantial and significant risk of harm to a child. (Section 453.070 RSMo.)

**Policy Revisions:**

Section 6 Chapter 3 Attachment H [Guide for Conducting Adoptive Family Assessment Services](#)

**Children’s Division Impact:** The changes to these sections provide assurances that determinations about the issuance, suspensions and revocation of foster care licensure; the removal of a child from a parent’s custody; termination of parental rights; or the suitability of an individual to adopt a child is not made on the basis of an individual’s disability or disease without showing a specific and causal relationship to substantial and significant risk of harm to a child.

**HUMAN TRAFFICKING**

[House Bill 214](#) changes various laws related to human trafficking. The sections pertaining to the Children’s Division are as follows:

*Establishment of Training and Protocols to Identify Victims of Human Trafficking*

This bill authorizes the Department of Public Safety to establish procedures for identifying victims of human trafficking and to establish training programs and protocols for agencies to educate officials and employees on state statutes and federal laws regulating human trafficking. (Section 566.223 RSMo.)

Such agencies may include state employees and contractors, including the Children's Division, juvenile courts, state law enforcement agencies, health care professionals, and runaway and homeless youth shelter administrators.

*Requirement to Notify the DSS of Victims of Human Trafficking*

This bill requires any person from a law enforcement agency, a prosecuting attorney's office or circuit attorney's office to notify the Department of Social Services and, where applicable, juvenile justice authorities, if the individual encounters an individual who reasonably appears to be a victim of trafficking, in order that such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance. (Section 566.223 RSMo.)

**Children’s Division Impact:** Provisions requiring the Department of Public Safety to develop training and protocols for agencies will provide added resources for Children’s Division staff to address human trafficking that comes to the Division’s attention.

This legislation will promote multi-agency collaboration in addressing the problem of human trafficking through the development training curricula and protocols for victim identification, assessment and service referral.

It is assumed that alleged perpetrators in the majority of human trafficking incidents would not meet the care, custody or control criteria for a child abuse neglect investigation and would be handled as non-caretaker referrals. Those cases that do meet care, custody or control criteria would be screened according to child abuse or neglect criteria and if met would be handled as an investigation or a family assessment.

**Revised Policy:** No Division policy required at this time.

## **DOMESTIC VIOLENCE**

[Senate Bill 320](#) changes various laws related to domestic violence. The sections pertaining to the Children's Division of the Department of Social Services are as follows:

### **Ex parte and Full Orders of Protection for Respondents under the Age of 17**

The changes in this bill would generally make available protections against domestic violence provided by ex parte and full orders of protection, to respondents under the age of 17. (Sections 211.031 RSMo., 455.035 RSMo., 455.513 RSMo., and Section 455.800 RSMo.)

### **Juvenile Court Jurisdiction for Respondents under Age 17**

This bill also gives juvenile court jurisdiction for respondents under age 17 and requires the appointment of a guardian ad litem in such cases. (Section 455.035 RSMo.)

### **Confidentiality of the Juvenile Records**

This bill also addresses the confidentiality of the juvenile records and when such records may be open to inspection without a court order only to 1) the juvenile officer; 2) the officials at the child's school, law enforcement officials, prosecuting attorneys, or any person or agency having or proposed to provide care, custody, or control or to provide treatment of the child; and 3) a parent or guardian of or court appointed guardian ad litem for the child. (Section 455.800 RSMo.)

### **Domestic Violence Definitions**

This bill provides greater consistency in law related to adult and child orders of protection by modifying domestic violence related definitions and putting them in one definition section. (Sections 43.545 RSMo., 452.375 RSMo., 455.010 RSMo., 455.200 RSMo., 455.501 RSMo., 455.540 RSMo., and 527.290 RSMo.)

### **Include Stalking and Expands Conditions of Adult and Child Orders to Prohibit Communicating with the Petitioner.**

This bill provides that the grounds for issuing ex parte or full orders of protection for both adults and children include stalking and expands conditions of both adult and child orders to prohibit communicating with the petitioner. (Sections 455.010 RSMo., 455.035 RSMo., 455.516 RSMo., 455.520 RSMo.; 455.523 RSMo., and 453.538 RSMo.)

### **Repeated Violations of Adult Orders**

This bill provides enhanced penalties for violating child orders of protection as with repeated violations of adult orders. (Sections 455.085 RSMo. and 453.538 RSMo.)

### **Revises Entry into the Missouri Uniform Law Enforcement System ("MULES")**

This act requires service of orders of protection to be entered into the Missouri Uniform Law Enforcement System ("MULES") within 24 hours. Also, law enforcement agencies maintaining MULES shall include certain child custody and visitation information when entering an order of protection. (Sections 455.038 RSMo. and 455.040 RSMo.)

<p><b>Children's Division Impact:</b> The Children's Division does not anticipate a direct impact on Division policy or programs, however many changes in this bill will be beneficial to families with domestic violence issues, many of which may become involved with the Children's Division.</p>
---

Provisions in this bill would generally:

- Make available protections provided by ex parte and full orders of protection to child victims of abuse and domestic violence.
- Create greater consistency and clarity in the terminology used and conditions which constitute violations of ex parte and full orders of protection.
- Requirements to enter and update custody and visitation information into MULES will give law enforcement greater access to current custody and visitation information in the field, which will be helpful in assessing and addressing domestic violence situations. Although the Division does not anticipate a direct impact on Division policy or programs, we believe this bill enhances the tools available to assess and assure safety for adult and child victims of domestic violence.

**Revised Policy:**

Section 7, Chapter 24 [Domestic Violence](#)

Section 7 [Glossary](#)

## **TANF CHILD PROTECTION AND DRUG FREE HOME ACT**

[SB 73 and 47](#) creates the "TANF Child Protection and Drug Free Home Act".

This bill requires the Department of Social Services to develop a program to screen applicants for or recipients of Temporary Assistance for Needy Families (TANF) Program benefits for whom the department has reasonable cause to believe, based on the screening, engages in the illegal use of a controlled substance.

- An applicant or recipient who tested positive for the illegal use of a controlled substance which has not been prescribed by a licensed health care provider or who refuses to submit to a test must, after an administrative hearing by the Department, be declared ineligible for TANF benefits for 3 years must be referred to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse within the Department of Mental Health.
- However, an applicant or recipient who, after being referred by the Department, enters and successfully completes a substance abuse treatment program and does not test positive for the illegal use of a controlled substance for 6 months from the date of entry into the program will continue to receive benefits while participating in the program.
- The Department may test these individuals for illegal drug use at random or set intervals, at the Department's discretion, after the initial 6 months; and if the individual tests positive a second time, he or she will be declared ineligible for TANF benefits for a period of 3 years from the date of the administrative hearing decision.

The case worker of an applicant or recipient is required to report or cause a report to be made to the Children's Division within the Department of Social Services of any suspected child abuse as a result of drug abuse when an applicant or recipient has tested positive for the illegal use of a controlled substance or has refused to be tested.

Any member of a household which includes a person, who has been declared ineligible for TANF benefits, if otherwise eligible, will continue to receive benefits as protective or vendor payments to a third-party payee. (Section 208.027 RSMo.)

**Children’s Division Impact:** It is anticipated that this bill would result in additional reports being made to the Children’s Division’s child abuse/neglect hotline for screening as the result of mandated reports being made to the hotline for suspected child abuse as a result of drug abuse. The Children’s Division would continue to follow the current screening process to determine if an investigation or an assessment is necessary to determine child abuse.

**Revised Policy:** The criteria for receiving reports or for screening will not change; therefore Children’s Division policy revision is not required.

## **JUDICIAL PROCEDURES**

[House Bill 111](#) changes the laws regarding judicial procedures including the following provisions:

### **Sexual Contact with a Student**

Currently, a person who works for or volunteers at a school commits the crime of sexual contact with a student while on public school property, a class D felony, if he or she has sexual contact with a student while on any public school property. The bill removes the requirement that the crime be committed while on public school property and adds an elected or appointed official of the school district to the list of individuals to whom the provision applies. (Section 566.086 RSMo.)

**Children’s Division Impact:** This law expands protections to students from sexual contact by a school employee or volunteer at a school.

**Policy Revision:** No Division policy revision required.

### **Sexual Offenders**

Currently, any person who, since July 1, 1979, has pled guilty or nolo contendere to (no contest), been convicted of, or been found guilty of certain specified sexual offenses is prohibited from residing within 1,000 feet of certain public schools, private schools, or child care facilities. The bill specifies that a child care facility includes any licensed child care facility or any facility which is exempt from licensure but subject to state fire, safety, health, and sanitation inspections and holds itself out to be a child care facility. (Sections 566.147 RSMo. and 589.040 RSMo.)

The bill also requires a person incarcerated for a sexual assault offense to successfully complete the treatment, education, and rehabilitation program provided by the Department of Corrections prior to being eligible for parole or conditional release.

**Children’s Division Impact:** This bill extends protections provided to prohibit sexual offenders from residing near licensed daycare facilities to those that are exempt from being licensed and provides further assurance that sexual offenders complete treatment.

**Policy Revision:** These provisions will not require revision of Division policy.

## **CHILD ABUSE PREVENTION**

### **April is “Child Abuse Prevention Month”**

[House Bill 749](#) designates the month of April as "Child Abuse Prevention Month" in the state of Missouri. The citizens of Missouri are encouraged to observe the month with appropriate activities and events to increase awareness of the prevalence and warning signs of child abuse

and the prevention methods and measures available to reduce the incidence of child abuse in this state. (Section 9.173 RSMo.)

*“Blue Ribbon” Official State Symbol for Child Abuse Prevention*

The bill also designates the "blue ribbon" as the official state symbol for child abuse prevention. (Section 10.185 RSMo.)

**Children’s Division Impact:** No direct impact on the Children’s Division, however this legislation would bring focus and awareness to child abuse prevention during the month of April.  
**Policy Revision:** No Division policy revision is required.

**NECESSARY ACTION**

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

**For questions regarding the memorandum:**

**PDS CONTACT**

Randall McDermit  
 (573) 751-8932  
[Randall.D.McDermit@dss.mo.gov](mailto:Randall.D.McDermit@dss.mo.gov)

**PROGRAM MANAGER**

Amy L. Martin  
 (573) 751-4920  
[Amy.L.Martin@dss.mo.gov](mailto:Amy.L.Martin@dss.mo.gov)

**For questions regarding the Adoption Records Policy:**

**PDS CONTACT**

Sarah Bashore  
 (573) 751-0311  
[Sarah.Bashore@dss.mo.gov](mailto:Sarah.Bashore@dss.mo.gov)

**PROGRAM MANAGER**

Amy L. Martin  
 (573) 751-4920  
[Amy.L.Martin@dss.mo.gov](mailto:Amy.L.Martin@dss.mo.gov)

**For questions regarding the Foster Care Policy:**

**PDS CONTACT**

Christy Collins  
 (573) 751-9603  
[Christy.M.Collins@dss.mo.gov](mailto:Christy.M.Collins@dss.mo.gov)

**PROGRAM MANAGER**

Dena Driver  
 (573) 522-5062  
[Dena.D.Driver@dss.mo.gov](mailto:Dena.D.Driver@dss.mo.gov)

**For questions regarding the CA/N Policy and the SB 54 Review Process:**

**PDS CONTACT**

Scott Montgomery  
 (573) 751-8932  
[Scott.B.Mongomery@dss.mo.gov](mailto:Scott.B.Mongomery@dss.mo.gov)

**PROGRAM MANAGER**

Dena Driver  
 (573) 522-5062  
[Dena.D.Driver@dss.mo.gov](mailto:Dena.D.Driver@dss.mo.gov)

<b>For questions regarding Foster Care Licensing Policy:</b>	
<b>PDS CONTACT</b> Elizabeth Tattershall (573) 522-1191 <a href="mailto:Elizabeth.Tattershall@dss.mo.gov">Elizabeth.Tattershall@dss.mo.gov</a>	<b>PROGRAM MANAGER</b> Dena Driver (573) 522-5062 <a href="mailto:Dena.D.Driver@dss.mo.gov">Dena.D.Driver@dss.mo.gov</a>
<b>CHILD WELFARE MANUAL REVISIONS</b> (See body of the memorandum)	
<b><u>FORMS AND INSTRUCTIONS</u></b> Senate Bill 54 Review Request (CD-SB54) Senate Bill 54 Review Disposition Notification (CD-SB54C) Description of the Investigation (CS-24)	
<b>REFERENCE DOCUMENTS AND RESOURCES</b> N/A	
<b>RELATED STATUTE</b> (See body of the memorandum)	
<b>ADMINISTRATIVE RULE</b> N/A	
<b>COUNCIL ON ACCREDITATION (COA) STANDARDS</b> N/A	
<b>CHILD AND FAMILY SERVICES REVIEW (CFSR)</b> N/A	
<b>PROTECTIVE FACTORS</b> Parental Resilience Social Connections Knowledge of Parenting and Child Development Concrete Support in Times of Need Social and Emotional Competence of Children	
<b>FACES REQUIREMENTS</b> N/A	