

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/HCS/House Bill No. 1659, Page 27, Section 197.135, Line 82,

2 by inserting after all of said line the following:

3 "198.022. 1. Upon receipt of an application for a
4 license to operate a facility, the department shall review
5 the application, investigate the applicant and the
6 statements sworn to in the application for license and
7 conduct any necessary inspections. A license shall be
8 issued if the following requirements are met:

9 (1) The statements in the application are true and
10 correct;

11 (2) The facility and the operator are in substantial
12 compliance with the provisions of sections 198.003 to
13 198.096 and the standards established thereunder;

14 (3) The applicant has the financial capacity to
15 operate the facility;

16 (4) The administrator of an assisted living facility,
17 a skilled nursing facility, or an intermediate care facility
18 is currently licensed under the provisions of chapter 344;

19 (5) Neither the operator nor any principals in the
20 operation of the facility have ever been convicted of a
21 felony offense concerning the operation of a long-term
22 health care facility or other health care facility or ever
23 knowingly acted or knowingly failed to perform any duty
24 which materially and adversely affected the health, safety,
25 welfare or property of a resident, while acting in a
26 management capacity. The operator of the facility or any

27 principal in the operation of the facility shall not be
28 under exclusion from participation in the Title XVIII
29 (Medicare) or Title XIX (Medicaid) program of any state or
30 territory;

31 (6) Neither the operator nor any principals involved
32 in the operation of the facility have ever been convicted of
33 a felony in any state or federal court arising out of
34 conduct involving either management of a long-term care
35 facility or the provision or receipt of health care;

36 (7) All fees due to the state have been paid.

37 2. Upon denial of any application for a license, the
38 department shall so notify the applicant in writing, setting
39 forth therein the reasons and grounds for denial.

40 3. The department may inspect any facility and any
41 records and may make copies of records, at the facility, at
42 the department's own expense, required to be maintained by
43 sections 198.003 to 198.096 or by the rules and regulations
44 promulgated thereunder at any time if a license has been
45 issued to or an application for a license has been filed by
46 the operator of such facility. Copies of any records
47 requested by the department shall be prepared by the staff
48 of such facility within two business days or as determined
49 by the department. The department shall not remove or
50 disassemble any medical record during any inspection of the
51 facility, but may observe the photocopying or may make its
52 own copies if the facility does not have the technology to
53 make the copies. In accordance with the provisions of
54 section 198.525, the department shall make at least one
55 inspection per year, which shall be unannounced to the
56 operator. The department may make such other inspections,
57 announced or unannounced, as it deems necessary to carry out
58 the provisions of sections 198.003 to 198.136.

59 4. Whenever the department has reasonable grounds to
60 believe that a facility required to be licensed under
61 sections 198.003 to 198.096 is operating without a license,
62 and the department is not permitted access to inspect the
63 facility, or when a licensed operator refuses to permit
64 access to the department to inspect the facility, the
65 department shall apply to the circuit court of the county in
66 which the premises is located for an order authorizing entry
67 for such inspection, and the court shall issue the order if
68 it finds reasonable grounds for inspection or if it finds
69 that a licensed operator has refused to permit the
70 department access to inspect the facility.

71 5. Whenever the department is inspecting a facility in
72 response to an application from an operator located outside
73 of Missouri not previously licensed by the department, the
74 department may request from the applicant the past five
75 years compliance history of all facilities owned by the
76 applicant located outside of this state.

77 6. If a licensee of a residential care facility or
78 assisted living facility is accredited by a recognized
79 accrediting entity, then the licensee may submit to the
80 department documentation of the licensee's current
81 accreditation status. If a licensee submits to the
82 department documentation from a recognized accrediting
83 entity that the licensee is in good standing, then the
84 department shall not conduct an annual onsite inspection of
85 the licensee. Nothing in this subsection shall preclude the
86 department from conducting inspections for violations of
87 standards or requirements contained within this chapter or
88 any other applicable law or regulation. As used in this
89 subsection, the term "recognized accrediting entity" shall
90 mean the Joint Commission or another nationally-recognized
91 accrediting entity approved by the department that has

92 specific residential care facility or assisted living
93 facility program standards equivalent to the standards
94 established by the department under this chapter.

95 210.109. 1. The children's division shall establish a
96 child protection system for the entire state.

97 2. The child protection system shall promote the
98 safety of children and the integrity and preservation of
99 their families by conducting investigations or family
100 assessments and providing services in response to reports of
101 child abuse or neglect. The system shall coordinate
102 community resources and provide assistance or services to
103 children and families identified to be at risk, and to
104 prevent and remedy child abuse and neglect.

105 3. In addition to any duties specified in section
106 210.145, in implementing the child protection system, the
107 division shall:

108 (1) Maintain a central registry;

109 (2) Receive reports and establish and maintain an
110 information system operating at all times, capable of
111 receiving and maintaining reports;

112 (3) Attempt to obtain the name and address of any
113 person making a report in all cases, after obtaining
114 relevant information regarding the alleged abuse or neglect,
115 although reports may be made anonymously; except that,
116 reports by mandatory reporters under section 210.115,
117 including employees of the children's division, juvenile
118 officers, and school personnel shall not be made
119 anonymously, provided that the reporter shall be informed,
120 at the time of the report, that the reporter's name and any
121 other personally identifiable information shall be held as
122 confidential and shall not be made public as provided under
123 this section and section 211.319;

124 (4) Upon receipt of a report, check with the
125 information system to determine whether previous reports
126 have been made regarding actual or suspected abuse or
127 neglect of the subject child, of any siblings, and the
128 perpetrator, and relevant dispositional information
129 regarding such previous reports;

130 (5) Provide protective or preventive services to the
131 family and child and to others in the home to prevent abuse
132 or neglect, to safeguard their health and welfare, and to
133 help preserve and stabilize the family whenever possible.
134 The juvenile court shall cooperate with the division in
135 providing such services;

136 (6) Collaborate with the community to identify
137 comprehensive local services and assure access to those
138 services for children and families where there is risk of
139 abuse or neglect;

140 (7) Maintain a record which contains the facts
141 ascertained which support the determination as well as the
142 facts that do not support the determination;

143 (8) Whenever available and appropriate, contract for
144 the provision of children's services through children's
145 services providers and agencies in the community; except
146 that the state shall be the sole provider of child abuse and
147 neglect hotline services, the initial child abuse and
148 neglect investigation, and the initial family assessment.
149 To assist in its child abuse and neglect investigation, the
150 division may contract for services designed to ascertain
151 child safety and provide preventative services; provided
152 that a contractor providing child safety services for a
153 child shall not also be a placement provider for that
154 child. The division shall attempt to seek input from child
155 welfare service providers in completing the initial family
156 assessment. In all legal proceedings involving children in

157 the custody of the division, the division shall be
158 represented in court by either division personnel or persons
159 with whom the division contracts with for such legal
160 representation. All children's services providers and
161 agencies shall be subject to criminal background checks
162 pursuant to chapter 43 and shall submit names of all
163 employees to the family care safety registry; and

164 (9) Upon receipt of a report, attempt to ascertain
165 whether the suspected perpetrator or any person responsible
166 for the care, custody, and control of the subject child is a
167 member of any branch of the military, as defined under
168 section 40.005, or is a member of the Armed Forces, as
169 defined in section 41.030.

170 As used in this subsection, "report" includes any telephone
171 call made pursuant to section 210.145.

172 210.112. 1. It is the policy of this state and its
173 agencies to implement a foster care and child protection and
174 welfare system focused on providing the highest quality of
175 services and outcomes for children and their families. The
176 department of social services shall implement such system
177 subject to the following principles:

178 (1) The safety and welfare of children is paramount;

179 (2) All providers of direct services to children and
180 their families will be evaluated in a uniform, transparent,
181 objective, and consistent basis based on an evaluation tool
182 established in this section;

183 (3) Services to children and their families shall be
184 provided in a timely manner to maximize the opportunity for
185 successful outcomes, and such services shall be tracked and
186 routinely evaluated through a quality assurance program;

187 (4) Any provider of direct services to children and
188 families shall have the appropriate and relevant training,
189 education, and expertise to provide the highest quality of

190 services possible which shall be consistent with federal and
191 state standards;

192 (5) Resources and efforts shall be committed to pursue
193 the best possible opportunity for a successful outcome for
194 each child. Successful outcomes may include preparing youth
195 for a productive and successful life as an adult outside the
196 foster care system, such as independent living. For those
197 providers that work with children requiring intensive twenty-
198 four-hour treatment services, successful outcomes shall be
199 based on the least restrictive alternative possible based on
200 the child's needs as well as the quality of care received;
201 and

202 (6) All service providers shall prioritize methods of
203 reducing or eliminating a child's need for residential
204 treatment through community-based services and supports.

205 2. (1) In conjunction with the response and
206 evaluation team established under subsection 3 of this
207 section, as well as other individuals the division deems
208 appropriate, the division shall establish an evaluation tool
209 that complies with state and federal guidelines.

210 (2) The evaluation tool shall include metrics
211 supporting best practices for case management and service
212 provision including, but not limited to, the frequency of
213 face-to-face visits with the child.

214 (3) There shall be a mechanism whereby providers may
215 propose different evaluation metrics on a case-by-case basis
216 if such case may have circumstances far beyond those that
217 would be expected. Such cases shall be evaluated by the
218 response and evaluation team under subsection 3 of this
219 section.

220 (4) Data regarding all evaluation metrics shall be
221 collected by the division on a monthly basis, and the
222 division shall issue a quarterly report regarding the

223 evaluation data for each provider, both public and private,
224 by county. The response and evaluation team shall determine
225 how to aggregate cases for the division and large
226 contractors so that performance and outcomes may be compared
227 effectively while also protecting confidentiality. Such
228 reports shall be made public and shall include information
229 by county.

230 (5) The standards and metrics developed through this
231 evaluation tool shall be used to evaluate competitive bids
232 for future contracts established under subsection 4 of this
233 section.

234 3. The division shall create a response and evaluation
235 team. Membership of the team shall be composed of five
236 staff members from the division with experience in foster
237 care appointed by the director of the division; five
238 representatives, one from each contract region for foster
239 care case management contracts under this section, who shall
240 be annually rotated among contractors in each region, which
241 shall appoint the agency; two experts working in either
242 research or higher education on issues relating to child
243 welfare and foster care appointed by the director of the
244 division and who shall be actively working for either an
245 academic institution or policy foundation; one juvenile
246 officer or a Missouri juvenile justice director to be
247 appointed by the Missouri Juvenile Justice Association; and
248 one juvenile or family court judge appointed by the supreme
249 court. The division shall provide the necessary staffing
250 for the team's operations. All members shall be appointed
251 and the team shall meet for the first time before January 1,
252 2021. The team shall:

253 (1) Review the evaluation tool and metrics set forth
254 in subsection 2 of this section on a semiannual basis to
255 determine any adjustments needed or issues that could affect

256 the quality of such tools and approve or deny on a case-by-
257 case basis:

258 (a) Cases that a provider feels are anomalous and
259 should not be part of developing the case management tool
260 under subsection 2 of this section;

261 (b) Alternative evaluation metrics recommended by
262 providers based on the best interests of the child under
263 subsections 2 and 5 of this section; or

264 (c) Review and recommend any structure for incentives
265 or other reimbursement strategies under subsection 6 of this
266 section;

267 (2) Develop and execute periodic provider evaluations
268 of cases managed by the division and children service
269 providers contracted with the state to provide foster care
270 case management services, in the field under the evaluation
271 tool created under subsection 2 of this section to ensure
272 basic requirements of the program are met, which shall
273 include, but are not limited to, random file review to
274 ensure documentation shows required visits and case
275 management plan notes; and

276 (3) Develop a system for reviewing and working with
277 providers identified under subdivision (2) of this
278 subsection or providers who request such assistance from the
279 division who show signs of performance weakness to ensure
280 technical assistance and other services are offered to
281 assist the providers in achieving successful outcomes for
282 their cases.

283 4. The children's division and any other state agency
284 deemed necessary by the division shall, in consultation with
285 service providers and other relevant parties, enter into and
286 implement contracts with qualified children's services
287 providers and agencies to provide a comprehensive and
288 deliberate system of service delivery for children and their

289 families. Contracts shall be awarded through a competitive
290 process and provided by qualified public and private not-for-
291 profit or limited liability corporations owned exclusively
292 by not-for-profit corporations children's services providers
293 and agencies which have:

294 (1) A proven record of providing child welfare
295 services within the state of Missouri which shall be
296 consistent with the federal standards, but not less than the
297 standards and policies used by the children's division as of
298 January 1, 2004; and

299 (2) The ability to provide a range of child welfare
300 services including, but not limited to, case management
301 services, family-centered services, foster and adoptive
302 parent recruitment and retention, residential care, in-home
303 services, foster care services, adoption services, relative
304 care case management, planned permanent living services, and
305 family reunification services.

306 No contracts under this section shall be issued for services
307 related to the child abuse and neglect hotline,
308 investigations of alleged abuse and neglect, and initial
309 family assessments, except for services designed to assist
310 the division in ascertaining child safety and providing
311 preventative services. Any contracts entered into by the
312 division shall be in accordance with all federal laws and
313 regulations, and shall seek to maximize federal funding.
314 Children's services providers and agencies under contract
315 with the division shall be subject to all federal, state,
316 and local laws and regulations relating to the provision of
317 such services, and shall be subject to oversight and
318 inspection by appropriate state agencies to assure
319 compliance with standards which shall be consistent with the
320 federal standards.

321 5. The division shall accept as prima facie evidence
322 of completion of the requirements for licensure under
323 sections 210.481 to 210.511 proof that an agency is
324 accredited by any of the following nationally recognized
325 bodies: the Council on Accreditation of Services, Children
326 and Families, Inc.; the Joint Commission on Accreditation of
327 Hospitals; or the Commission on Accreditation of
328 Rehabilitation Facilities.

329 6. Payment to the children's services providers and
330 agencies shall be made based on the reasonable costs of
331 services, including responsibilities necessary to execute
332 the contract. Any reimbursement increases made through
333 enhanced appropriations for services shall be allocated to
334 providers regardless of whether the provider is public or
335 private. Such increases shall be considered additive to the
336 existing contracts. In addition to payments reflecting the
337 cost of services, contracts shall include incentives
338 provided in recognition of performance based on the
339 evaluation tool created under subsection 2 of this section
340 and the corresponding savings for the state. The response
341 and evaluation team under subsection 3 of this section shall
342 review a formula to distribute such payments, as recommended
343 by the division.

344 7. The division shall consider immediate actions that
345 are in the best interests of the children served including,
346 but not limited to, placing the agency on a corrective plan,
347 halting new referrals, transferring cases to other
348 performing providers, or terminating the provider's
349 contract. The division shall take steps necessary to
350 evaluate the nature of the issue and act accordingly in the
351 most timely fashion possible.

352 8. By July 1, 2021, the children's division shall
353 promulgate and have in effect rules to implement the

354 provisions of this section and, pursuant to this section,
355 shall define implementation plans and dates. Any rule or
356 portion of a rule, as that term is defined in section
357 536.010, that is created under the authority delegated in
358 this section shall become effective only if it complies with
359 and is subject to all of the provisions of chapter 536 and,
360 if applicable, section 536.028. This section and chapter
361 536 are nonseverable and if any of the powers vested with
362 the general assembly pursuant to chapter 536 to review, to
363 delay the effective date, or to disapprove and annul a rule
364 are subsequently held unconstitutional, then the grant of
365 rulemaking authority and any rule proposed or adopted after
366 August 28, 2004, shall be invalid and void.

367 9. A provision in a service provider contract in which
368 the state is indemnified, held harmless, or insured for
369 damages, claims, losses, or expenses arising from any
370 injury, including, but not limited to, bodily injury, mental
371 anguish, property damage, or economic or noneconomic damages
372 or loss caused by or resulting from the state's negligence,
373 in whole or in part, shall be void as against public policy
374 and unenforceable. As used in this subsection, "service
375 provider contract" means a contract, agreement, or
376 understanding between a provider of services and the
377 division regarding the provision of services.

378 210.135. 1. Any person, official, employee of the
379 department of social services, or institution complying with
380 the provisions of sections [210.110] 210.109 to 210.165 in
381 the making of a report, the taking of color photographs, or
382 the making of radiologic examinations pursuant to sections
383 [210.110] 210.109 to 210.165, or both such taking of color
384 photographs and making of radiologic examinations, or the
385 removal or retaining a child pursuant to sections [210.110]
386 210.109 to 210.165 and chapter 211, or in cooperating with

387 the division, or cooperating with a qualified individual
388 pursuant to section 210.715, or any other law enforcement
389 agency, juvenile office, court, state agency, or child-
390 protective service agency of this or any other state, in any
391 of the activities pursuant to sections ~~[210.110]~~ 210.109 to
392 210.165 and chapter 211, or any other allegation of child
393 abuse, neglect or assault, pursuant to sections 568.045 to
394 568.060, shall have immunity from any liability, civil or
395 criminal, that otherwise might result by reason of such
396 actions. Provided, however, any person, official or
397 institution intentionally filing a false report, acting in
398 bad faith, or with ill intent, shall not have immunity from
399 any liability, civil or criminal. Any such person,
400 official, or institution shall have the same immunity with
401 respect to participation in any judicial proceeding
402 resulting from the report.

403 2. An employee, including a contracted employee, of a
404 state-funded child assessment center, as provided for in
405 subsection 2 of section 210.001, shall be immune from any
406 civil liability that arises from the employee's
407 participation in the investigation process and services by
408 the child assessment center, unless such person acted in bad
409 faith. This subsection shall not displace or limit any
410 other immunity provided by law.

411 3. Any person, who is not a school district employee,
412 who makes a report to any employee of the school district of
413 child abuse by a school employee shall have immunity from
414 any liability, civil or criminal, that otherwise might
415 result because of such report. Provided, however, that any
416 such person who makes a false report, knowing that the
417 report is false, or who acts in bad faith or with ill intent
418 in making such report shall not have immunity from any
419 liability, civil or criminal. Any such person shall have

420 the same immunity with respect to participation in any
421 judicial proceeding resulting from the report.

422 4. In a case involving the death or serious injury of
423 a child after a report has been made under sections 210.109
424 to 210.165, the division shall conduct a preliminary
425 evaluation in order to determine whether a review of the
426 ability of the circuit manager or case worker or workers to
427 perform their duties competently is necessary. The
428 preliminary evaluation shall examine:

429 (1) The hotline worker or workers who took any reports
430 related to such case;

431 (2) The division case worker or workers assigned to
432 the investigation of such report; and

433 (3) The circuit manager assigned to the county where
434 the report was investigated.

435 Any preliminary evaluation shall be completed no later than
436 three days after the child's death. If the division
437 determines a review and assessment is necessary, it shall be
438 completed no later than three days after the child's
439 death."; and

440 Further amend the title and enacting clause accordingly.