

SENATE BILL NO. 170

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

0915S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 210.560, RSMo, and to enact in lieu thereof one new section relating to money held by the children's division for the benefit of a child.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 210.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.560, to read as follows:

210.560. 1. As used in this section, the following terms shall mean:

(1) "Child", any child placed in the legal custody of the division under chapter 211;

(2) "Division", the children's division of the department of social services of the state of Missouri;

(3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or check;

(4) "Unmet needs", **needs for which the division is not required by law to provide financial support, such as:**

(a) **Tuition, tutoring, and training, including application fees, books, equipment, and testing;**

(b) **Transportation to work, training, education, or to maintain family connections;**

(c) **Housing expenses if the child is preparing to leave the custody of the division for reasons relating to the child's age; and**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (d) **Technology, special clothing needs, instruments,**
19 **books, and other equipment relating to the child's hobbies**
20 **and interests;**

21 (5) "Vested right", a legal right that is more than a
22 mere expectancy and may be reduced to a present monetary
23 value.

24 2. The child, the child's parents, any fiduciary or
25 any representative payee holding or receiving money that are
26 vested rights solely for or on behalf of a child are jointly
27 and severally liable for funds expended by the division to
28 or on behalf of the child. The liability of any person,
29 except a parent of the child, shall be limited to the money
30 received in his or her fiduciary or representative
31 capacity. The Missouri state government shall not require a
32 trustee or a financial institution acting as a trustee to
33 exercise any discretionary powers in the operation of a
34 trust.

35 3. (1) The division may accept an appointment to
36 serve as representative payee or fiduciary, or in a similar
37 capacity for payments to a child under any public or private
38 benefit arrangement. Money so received shall be governed by
39 this section to the extent that laws and regulations
40 governing payment of such benefits provide otherwise.

41 (2) **In the case of benefits administered by the U.S.**
42 **Railroad Retirement Board, the Social Security**
43 **Administration, or the Veterans Administration, the division**
44 **shall determine whether the child is receiving or otherwise**
45 **eligible to receive such benefits within sixty days after**
46 **the child is placed in the division's custody. If the**
47 **division determines that the child is eligible or may be**
48 **eligible for the benefits, then the division shall apply for**
49 **the benefits on behalf of the child. If the child is**

50 already receiving the benefits before being placed in the
51 division's custody or if the division applies for the
52 benefits on behalf of the child, then the division shall
53 identify, in consultation with the child and the child's
54 legal representative, a representative payee in accordance
55 with 20 CFR 404.2021 and 20 CFR 416.621 and shall apply to
56 become the representative payee only if no other suitable
57 candidate is available. The division shall annually review
58 if someone other than the division is available, if in the
59 best interests of the child, to apply to assume the role of
60 representative payee.

61 (3) The division shall annually review cases of
62 children in the division's custody to determine whether a
63 child may have become eligible for benefits after the
64 division's initial assessment.

65 4. Any money received by the division on behalf of a
66 child shall be accounted for in the name of the child. Any
67 money in the account of a child [may] shall not be expended
68 by the division for care or services for the child,
69 including, but not limited to, foster care maintenance
70 payments, as defined in 42 U.S.C. Section 675(4)(A), and any
71 special allowances or expenses established by the division
72 for the care of children in the division's custody for a
73 child of a similar age; provided, that the division may use
74 the benefits administered by the U.S. Railroad Retirement
75 Board, the Social Security Administration, or the Veterans
76 Administration for the child's unmet needs beyond what the
77 division is obligated, required, or agrees to pay. The
78 division shall by rule adopted under chapter 536 establish
79 procedures for the accounting of the money and the
80 protection of the money against theft, loss or
81 misappropriation.

82 5. The division shall deposit money with a financial
83 institution. Any earnings attributable to the money in the
84 account of a child shall be credited to that child's
85 account. The division shall receive bids from banking
86 corporations, associations or trust companies which desire
87 to be selected as depositories of children's moneys for the
88 division. **The child's account shall be established in a**
89 **manner consistent with federal and state asset and resource**
90 **limits and may include a special-needs trust, a pooled**
91 **special-needs trust, an ABLE account, as defined in section**
92 **209.600, or any other trust account determined not to**
93 **interfere with asset limitations for any state or federal**
94 **benefit program for which the child may be eligible.**

95 6. The division may accept funds which a parent,
96 guardian or other person wishes to provide for the use or
97 benefit of the child. The use and deposit of such funds
98 shall be governed by this section and any additional
99 directions given by the provider of the funds.

100 7. Each child for whose benefit funds have been
101 received by the division and the guardian ad litem of such
102 child shall be furnished annually with a statement listing
103 all transactions involving the funds which have been
104 deposited on the child's behalf, to include each receipt and
105 disbursement.

106 8. The division shall use all proper diligence to
107 dispose of the balance of money accumulated in the child's
108 account when the child is released from the care and custody
109 of the division or the child dies. When the child is
110 deceased the balance shall be disposed of as provided by law
111 for descent and distribution. If, after the division has
112 diligently used such methods and means as considered
113 reasonable to refund such funds, there shall remain any

114 money, the owner of which is unknown to the division, or if
115 known, cannot be located by the division, in each and every
116 such instance such money shall escheat and vest in the state
117 of Missouri, and the director and officials of the division
118 shall pay the same to the state director of the department
119 of revenue, taking a receipt therefor, who shall deposit the
120 money in the state treasury to be credited to a fund to be
121 designated as "escheat".

122 9. Within five years after money has been paid into
123 the state treasury, any person who appears and claims the
124 money may file a petition in the circuit court of Cole
125 County, Missouri, stating the nature of the claim and
126 praying that such money be paid to him. A copy of the
127 petition shall be served upon the director of the department
128 of revenue who shall file an answer to the same. The court
129 shall proceed to examine the claim and the allegations and
130 proof, and if it finds that such person is entitled to any
131 money so paid into the state treasury, it shall order the
132 commissioner of administration to issue a warrant on the
133 state treasurer for the amount of such claim, but without
134 interest or costs. A certified copy of the order shall be
135 sufficient voucher for issuing a warrant; provided, that
136 either party may appeal from the decision of the court in
137 the same manner as provided by law in other civil actions.

138 10. All moneys paid into the state treasury under the
139 provisions of this section after remaining there unclaimed
140 for five years shall escheat and vest absolutely in the
141 state and be credited to the state treasury, and all persons
142 shall be forever barred and precluded from setting up title
143 or claim to any such funds.

144 11. Nothing in this section shall be deemed to apply
145 to funds regularly due the state of Missouri for the support

146 and maintenance of children in the care and custody of the
147 division or collected by the state of Missouri as
148 reimbursement for state funds expended on behalf of the
149 child.

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