

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 682

101ST GENERAL ASSEMBLY

0276H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 37.710 and 210.152, RSMo, and to enact in lieu thereof twelve new sections relating to restrictions on government authority, with emergency clauses for certain sections.

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

Section A. Sections 37.710 and 210.152, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 1.1000, 21.753, 37.710, 37.717, 67.260, 162.052, 173.1590, 192.027, 210.152, 292.652, 542.525, and 1, to read as follows:

1.1000. 1. The exercise of any emergency power that the governor or any other official may have under the Constitution of Missouri or state law that binds or regulates the public is limited as follows:

(1) Notwithstanding any other law, emergency orders issued by state or local officials that bind, curtail, or infringe on the rights of private parties shall be narrowly tailored to serve a compelling public health or safety interest. Each order shall be limited in duration, applicability, and scope to reduce infringement of individual liberty;

(2) State courts shall have jurisdiction to hear cases challenging the lawfulness of state and local emergency orders, including compliance with this section. Courts shall expedite consideration of such challenges to the extent practicable. A court may cite inequality in the applicability or impact of emergency orders on analogous groups, situations, and circumstances as evidence that the order is not narrowly tailored to serve a compelling public health or safety purpose;

(3) To the extent allowed by the Constitution of Missouri and state law, only the governor may issue emergency orders that infringe on constitutional rights in a nontrivial

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **manner. For the purposes of this section, constitutional rights include, but are not limited**
17 **to, the rights to travel, work, assemble, and speak; the freedom of religious exercise; the**
18 **nonimpairment of contract and property rights; freedom from unreasonable search and**
19 **seizure; and the freedom to purchase lawful firearms and ammunition. All such orders**
20 **shall expire after thirty days unless the governor terminates the order earlier or the**
21 **legislature enacts legislation granting the governor power to issue an extended order.**

22 **2. Nothing in this section grants additional emergency powers to the governor or**
23 **any other official.**

24 **3. Notwithstanding the provisions of this section, state and local officials may issue**
25 **nonbinding recommendations and guidelines and may help coordinate public and private**
26 **action to prevent or respond to an emergency.**

21.753. All occupations in the state of Missouri qualify as essential workers. The
2 **general assembly hereby occupies and preempts the entire field of legislation touching in**
3 **any way the classification of essential workers.**

37.710. 1. The office shall have access to the following information:

2 (1) The names and physical location of all children in protective services, treatment, or
3 other programs under the jurisdiction of the children's division, the department of mental health,
4 and the juvenile court;

5 (2) All written reports of child abuse and neglect; and

6 (3) All current records required to be maintained pursuant to chapters 210 and 211.

7 2. The office shall have the authority:

8 (1) To communicate privately by any means possible with any child under protective
9 services and anyone working with the child, including the family, relatives, courts, employees
10 of the department of social services and the department of mental health, and other persons or
11 entities providing treatment and services;

12 (2) To have access, including the right to inspect, copy and subpoena records held by the
13 clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions,
14 public or private, and other agencies, or persons with whom a particular child has been either
15 voluntarily or otherwise placed for care, or has received treatment within this state or in another
16 state;

17 (3) To work in conjunction with juvenile officers and guardians ad litem;

18 (4) To file any findings or reports of the child advocate regarding the parent or child with
19 the court, and issue recommendations regarding the disposition of an investigation, which may
20 be provided to the court and to the investigating agency;

21 (5) To file amicus curiae briefs on behalf of the interests of the parent or child, or to file
22 such pleadings necessary to intervene on behalf of the child at the appropriate judicial level using
23 the resources of the office of the attorney general;

24 (6) To initiate meetings with the department of social services, the department of mental
25 health, the juvenile court, and juvenile officers;

26 (7) To take whatever steps are appropriate to see that persons are made aware of the
27 services of the child advocate's office, its purpose, and how it can be contacted;

28 (8) To apply for and accept grants, gifts, and bequests of funds from other states, federal,
29 and interstate agencies, and independent authorities, private firms, individuals, and foundations
30 to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated
31 account established within the office to permit moneys to be expended in accordance with the
32 provisions of the grant or bequest;

33 (9) Subject to appropriation, to establish as needed local panels on a regional or county
34 basis to adequately and efficiently carry out the functions and duties of the office, and address
35 complaints in a timely manner; and

36 (10) To mediate between alleged victims of sexual misconduct and school districts or
37 charter schools as provided in subsection 1 of section 160.262.

38 3. For any information obtained from a state agency or entity under sections 37.700 to
39 37.730, the office of child advocate shall be subject to the same disclosure restrictions and
40 confidentiality requirements that apply to the state agency or entity providing such information
41 to the office of child advocate. For information obtained directly by the office of child advocate
42 under sections 37.700 to 37.730, the office of child advocate shall be subject to the same
43 disclosure restrictions and confidentiality requirements that apply to the children's division
44 regarding information obtained during a child abuse and neglect investigation resulting in an
45 unsubstantiated report. **Nothing in this section shall preclude the office of child advocate**
46 **from releasing findings regarding the professional performance of any individual member**
47 **of the multidisciplinary team as described in section 660.520.**

37.717. 1. The office shall create a safety reporting system in which employees of
2 **the children's division may report information regarding the safety of those served by the**
3 **children's division and the safety of such division's employees.**

4 **2. The identity of any individual who reports to or participates in the reporting**
5 **system under subsection 1 of this section shall:**

6 **(1) Be sealed from inspection by the public or any other entity or individual who**
7 **is otherwise provided access to the department of social services' confidential records;**

8 **(2) Not be subject to discovery or introduction into evidence in any civil**
9 **proceeding; and**

10 **(3) Be disclosed only as necessary to carry out the purpose of the reporting system**
11 **under subsection 1 of this section.**

12 **3. Any criminal act reported into the reporting system under subsection 1 of this**
13 **section shall be disclosed by the office of child advocate to the appropriate law enforcement**
14 **agency or prosecuting or city attorney.**

15 **4. Any investigation conducted as a result of a report made under this section shall**
16 **be conducted by an unbiased and disinterested investigator.**

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

2 **(1) "Government entity", the government of any political subdivision, as such term**
3 **is defined under section 70.120; provided that, "government entity" shall not be construed**
4 **to include the general assembly;**

5 **(2) "Legislative body", the elected county health center board of trustees, county**
6 **council, county commission, board of alderman, or other elected governing body having**
7 **legislative authority over matters of public health within the government entity;**

8 **(3) "Public health order", an order, rule, or regulation that closes, partially closes,**
9 **or places restrictions on the opening of or access to business organizations, churches,**
10 **schools, other places of public or private gathering or assembly, or any individual business,**
11 **including any order, rule, or regulation that prohibits or otherwise limits attendance at any**
12 **public or private gathering, which order, rule, or regulation is instituted in response to an**
13 **actual or perceived threat to public health for the purpose of preventing the spread of a**
14 **contagious disease.**

15 **2. No official of a government entity shall enact any rule or regulation that is**
16 **generally applicable to the political subdivision and that is related to public health,**
17 **including any rule or regulation intended to prevent or limit the spread of a contagious**
18 **disease, without first securing a two-thirds vote of the government entity's legislative body**
19 **to approve the rule or regulation.**

20 **3. No rule or regulation issued by the department of health and senior services shall**
21 **authorize a local health official to create or enforce any generally applicable order,**
22 **ordinance, rule, or regulation described in section 192.300 or to issue any public health**
23 **order inconsistent with the provisions of subsection 4 of this section.**

24 **4. Any public health order issued by a government entity, including by a local**
25 **health officer, local public health agency, or the government entity's executive, as the term**
26 **"executive" is defined in section 67.750, shall not remain in effect for longer than fifteen**
27 **calendar days, including the cumulative duration of similar orders issued concurrently,**
28 **consecutively, or successively, and shall automatically expire at the end of the fifteen days**
29 **or as specified in the order, whichever is shorter, unless so authorized as follows:**

30 (1) For a second period not to exceed an additional fifteen calendar days, upon
31 approval of the government entity's legislative body to extend such order or approve a
32 similar order;

33 (2) For a third period not to exceed an additional ten calendar days, upon a two-
34 thirds vote of the government entity's legislative body to extend such order or approve a
35 similar order;

36 (3) For a fourth period not to exceed an additional ten calendar days, upon a two-
37 thirds vote of the government entity's legislative body to extend such order or approve a
38 similar order;

39 (4) For a fifth period not to exceed an additional ten calendar days, upon a two-
40 thirds vote of the government entity's legislative body to extend such order or approve a
41 similar order; and

42 (5) For each additional period not to exceed an additional ten calendar days, upon
43 a unanimous vote of the government entity's legislative body to extend such order or
44 approve a similar order.

45 5. The department of health and senior services may promulgate necessary rules
46 and regulations for the administration of this section. Any rule or portion of a rule, as that
47 term is defined in section 536.010, that is created under the authority delegated in this
48 section shall become effective only if it complies with and is subject to all of the provisions
49 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
50 nonseverable, and if any of the powers vested with the general assembly pursuant to
51 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
52 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
53 proposed or adopted after the effective date of this section shall be invalid and void.

 162.052. 1. The registered voters of a school district may file a petition with the
2 district's school board asking that an item be placed on a board meeting agenda. If the
3 school board of a school district receives a petition, signed by at least five percent of the
4 registered voters of the school district who voted in the last school board election, calling
5 for an item to be placed on the agenda for the school board, then the school board shall
6 place the requested item on the next meeting's agenda and shall take a vote on the
7 petitioned item within the next three board meetings. The petition shall include each
8 signer's printed or typed name, registered voting address, signature, and the date signed.
9 The school district shall verify the petition requirements with the local election authority
10 of the district.

11 2. The school board shall follow all relevant board policies in regards to the
12 placement of the item on the agenda, time allowed for discussion, testimony allowed,

13 quorum requirements, the process by which a vote is taken, and the required number of
14 votes for approval.

15 3. The petition shall contain a concise statement of what the school board is being
16 requested to discuss and vote upon. Such statement shall consist of no more than one
17 hundred words. The item requested by the petition shall be presented to the board in its
18 exact form and shall not be modified by the board.

19 4. A petition to request an item to be placed on the school board's agenda shall not
20 be submitted for the same item more than once every six months.

21 5. Items that may be presented to the board by petition shall include, but shall not
22 be limited to:

23 (1) Implementing, changing, or repealing a board policy;

24 (2) Modifying or reversing an action by school administration or requesting that
25 certain action be taken by school administration;

26 (3) Implementing, changing, or discontinuing the use of any curriculum or course
27 of instruction; or

28 (4) Modifying the school calendar.

29 6. The petition process under this section shall not be used to recall board members,
30 change district boundaries, authorize any bonding, impose any additional tax, or for any
31 other purpose that would require an issue be placed on the ballot to be voted upon by
32 residents at an election. However, a petition may be used under this section to request that
33 any of the issues described under this subsection be discussed at an upcoming school board
34 meeting and voted upon by the school board for further consideration by the district's
35 voters.

173.1590. 1. Except as provided in subsection 2 of this section, after June 30, 2022,
2 no public institution of higher education in this state shall require students to live in
3 campus housing, excluding first-time freshmen who may be required to live in campus
4 housing during the first year of a student's attendance.

5 2. Subsection 1 of this section shall not apply to the University of Central Missouri,
6 the University of Southeast Missouri State, and the Missouri University of Science and
7 Technology until after June 30, 2034.

192.027. 1. The provisions of this section shall be known and may be cited as the
2 "True COVID Liability Act".

3 2. The general assembly finds and declares that:

4 (1) Epidemiology is an inexact science and experts in that field hold a diverse set
5 of opinions about how best to deal with contagious diseases from a public policy
6 perspective;

7 **(2) Public policy relating to contagious diseases should take into account numerous**
8 **aspects of life beyond the scope of epidemiology, such as economic, social, spiritual, and**
9 **mental well-being;**

10 **(3) Contagious diseases including, but not limited to, COVID-19 tend to be**
11 **ubiquitous. Because of the prevalence of contagious diseases, exposure is practically**
12 **unavoidable for most people and likely to occur from multiple sources. It may be virtually**
13 **impossible to tell where and when exposure occurs;**

14 **(4) Susceptibility to contagious diseases depends greatly on personal choices and**
15 **individual characteristics. Hygiene, diet and nutrition, lifestyle, body condition, and other**
16 **factors may cause some individuals to succumb to exposure to a contagious disease while**
17 **the same viral load in another individual would be within his or her immune system's**
18 **ability to fight off;**

19 **(5) Personal accountability is central to the American ethos;**

20 **(6) The 2020 response to the COVID-19 pandemic has resulted in questionable use**
21 **of power by both state and local governments;**

22 **(7) There is no single public policy solution suitable to everyone's needs and**
23 **desires;**

24 **(8) Fear of legal liability associated with COVID-19 has placed pressures on the**
25 **private sector, resulting in decisions that are not best for the economy or the physical,**
26 **emotional, or spiritual well-being of Missourians;**

27 **(9) Government-mandated responses to contagious diseases always place unequal**
28 **burdens on people with varying circumstances. An edict may be of no great consequence**
29 **for some individuals but economically or emotionally devastating for other individuals;**
30 **and**

31 **(10) The principal office of government is to secure the individual liberty of the**
32 **people, including the freedom to make choices about how to personally deal with**
33 **contagious diseases.**

34 **3. For purposes of this section, the following terms mean:**

35 **(1) "Contagious disease", global acute infectious respiratory illness that is**
36 **transmitted by airborne particles or droplets and is not transmitted by direct contact with**
37 **food, surfaces, or bodily fluids;**

38 **(2) "Extraordinary prevalence", significantly greater prevalence than is typically**
39 **found in similar political subdivisions within the same time frame.**

40 **4. Notwithstanding any other provision of law, neither the state nor any political**
41 **subdivision of the state shall, as a response to a contagious disease:**

42 **(1) Quarantine an individual, issue a stay-at-home order for an individual, or**
43 **otherwise isolate an individual if a contagious disease has not been positively identified in**
44 **the individual;**

45 **(2) Limit the use of or otherwise lawful activities in any private property or**
46 **premises under circumstances in which extraordinary prevalence of a contagious disease**
47 **has not been proven; or**

48 **(3) Revoke any business license based on an individual's or entity's decision**
49 **regarding recommendations from a government or scientific entity.**

50 **5. Notwithstanding any other provision of law, no individual, owner of premises,**
51 **or any other entity shall be subject to criminal or civil liability in any action alleging**
52 **exposure to a contagious disease on premises under the control of the individual, owner,**
53 **or entity unless:**

54 **(1) The individual, owner, or entity knowingly and purposely, and with malice,**
55 **exposed an individual to a contagious disease; and**

56 **(2) Such exposure caused the exposed individual to suffer from a clinical disease.**

210.152. 1. All information, including telephone reports reported pursuant to section
2 210.145, relating to reports of abuse or neglect received by the division shall be retained by the
3 division or removed from the records of the division as follows:

4 (1) For investigation reports contained in the central registry, the report and all
5 information shall be retained by the division;

6 (2) (a) For investigation reports initiated against a person required to report pursuant to
7 section 210.115, where insufficient evidence of abuse or neglect is found by the division and
8 where the division determines the allegation of abuse or neglect was made maliciously, for
9 purposes of harassment, or in retaliation for the filing of a report by a person required to report,
10 identifying information shall be expunged by the division within forty-five days from the
11 conclusion of the investigation;

12 (b) For investigation reports, where insufficient evidence of abuse or neglect is found
13 by the division and where the division determines the allegation of abuse or neglect was made
14 maliciously, for purposes of harassment, or in retaliation for the filing of a report, identifying
15 information shall be expunged by the division within forty-five days from the conclusion of the
16 investigation;

17 (c) For investigation reports initiated by a person required to report under section
18 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying
19 information shall be retained for ten years from the conclusion of the investigation. For all other
20 investigation reports where insufficient evidence of abuse or neglect is found by the division,
21 identifying information shall be retained for five years from the conclusion of the investigation.

22 Such reports shall include any exculpatory evidence known by the division, including
23 exculpatory evidence obtained after the closing of the case. At the end of such time period, the
24 identifying information shall be removed from the records of the division and destroyed;

25 (d) For investigation reports where the identification of the specific perpetrator or
26 perpetrators cannot be substantiated and the division has specific evidence to determine that a
27 child was abused or neglected, the division shall retain the report and all information but shall
28 not place an unknown perpetrator on the central registry. The division shall retain all
29 information. The division shall retain and disclose information and findings in the same manner
30 as the division retains and discloses family assessments. If the division made a finding of abuse
31 or neglect against an unknown perpetrator prior to August 28, 2017, the division shall remove
32 the unknown perpetrator from the central registry but shall retain and utilize all information as
33 otherwise provided in this section;

34 (3) For reports where the division uses the family assessment and services approach,
35 information shall be retained by the division;

36 (4) For reports in which the division is unable to locate the child alleged to have been
37 abused or neglected, information shall be retained for eighteen years from the date of the report
38 and then shall be removed from the records by the division.

39 2. Within ninety days, or within one hundred twenty days in cases involving sexual
40 abuse, or until the division's investigation is complete in cases involving a child fatality or near-
41 fatality, after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator
42 named in the report and the parents of the child named in the report, if the alleged perpetrator is
43 not a parent, shall be notified in writing of any determination made by the division based on the
44 investigation. The notice shall advise either:

45 (1) That the division has determined by a probable cause finding prior to August 28,
46 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists
47 and that the division shall retain all information regarding the abuse or neglect; that such
48 information shall remain confidential and will not be released except to law enforcement
49 agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged
50 perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's
51 determination through a review by the child abuse and neglect review board as provided in
52 subsection 4 of this section;

53 (2) That the division has not made a probable cause finding or determined by a
54 preponderance of the evidence that abuse or neglect exists; or

55 (3) The division has been unable to determine the identity of the perpetrator of the abuse
56 or neglect. The notice shall also inform the child's parents and legal guardian that the division

57 shall retain, utilize, and disclose all information and findings as provided in family assessment
58 and services cases.

59 3. The children's division may reopen a case for review if new, specific, and credible
60 evidence is obtained.

61 4. Any person named in an investigation as a perpetrator who is aggrieved by a
62 determination of abuse or neglect by the division as provided in this section may seek an
63 administrative review by the child abuse and neglect review board pursuant to the provisions of
64 section 210.153. Such request for review shall be made within sixty days of notification of the
65 division's decision under this section. In those cases where criminal charges arising out of facts
66 of the investigation are pending, the request for review shall be made within sixty days from the
67 court's final disposition or dismissal of the charges. **Nothing in this section shall preclude the**
68 **office of child advocate from releasing findings regarding the professional performance of**
69 **any individual member of the multidisciplinary team as described in section 660.520.**

292.652. 1. For purposes of this section, the following terms mean:

2 (1) "Public employee", any person performing work or service of any kind or
3 character for a public employer;

4 (2) "Public employer", any department, agency, or instrumentality of the state or
5 any political subdivision of the state.

6 2. A public employer shall not require any public employee or person entering a
7 public building or space to be vaccinated for COVID-19.

8 3. A political subdivision shall not adopt any ordinance, rule, or regulation that
9 requires a public employer to implement a policy that violates the provisions of subsection
10 2 of this section.

542.525. No employee of a state agency or a political subdivision of the state shall
2 **place any surveillance camera or game camera on private property without first obtaining**
3 **consent from the landowner or the landowner's designee; a search warrant as required**
4 **under Article I, Section 15 of the Constitution of Missouri or the fourth and fourteenth**
5 **amendments of the Constitution of the United States; or permission from the highest**
6 **ranking law enforcement chief or officer of the agency or political subdivision, provided**
7 **that permission of the highest ranking law enforcement chief or officer of the agency or**
8 **political subdivision is valid only when the camera is facing a location that is open to public**
9 **access or use and the camera is located within one hundred feet of the intended**
10 **surveillance location.**

Section 1. No political subdivision of this state shall adopt or enforce an ordinance,
2 **resolution, regulation, code, or policy that requires or has the effect of requiring the**
3 **connection of a private single-family residence to public water or sewer services if that**

4 **residence is already served by an existing private well or septic system unless such existing**
5 **installation was installed in violation of applicable ordinances at the time of installation.**
6 **Nothing in this subsection shall be construed to prohibit the enforcements of applicable**
7 **health or environmental regulations of the State of Missouri.**

Section B. Because of the immediate threat of government overreach to the residents of
2 Missouri, section 192.027 of section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section 192.027 of section A of this
5 act shall be in full force and effect upon its passage and approval.

Section C. Because immediate action is necessary to protect the health and safety of
2 Missouri residents, section 67.260 of section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section 67.260 of section A of this act
5 shall be in full force and effect upon its passage and approval.

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