

V.A.M.S. 210.115



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Title XII. Public Health and Welfare

[Chapter 210](#). Child Protection and Reformation ([Refs & Annos](#))

[Child Abuse](#) ([Refs & Annos](#))

→**210.115. Reports of abuse**, neglect, and under age eighteen deaths--who required to report--deaths required to reported to the division, when--reports to law enforcement agency or juvenile office

1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by [section 352.400, RSMo](#), peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of [sections 210.109 to 210.183](#). As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in [section 210.110](#), but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to [sections 210.109 to 210.183](#) in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of [sections 210.109 to 210.183](#), any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with [sections 210.109 to 210.183](#) if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in [section 58.452, RSMo](#), and shall report the

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findings to the child fatality review panel established pursuant to [section 210.192](#).

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

## CREDIT(S)

(L.1975, H.B. No. 578, p. 251, § 2, eff. June 6, 1975. Amended by L.1980, S.B. No. 574, p. 329, § 1; L.1982, H.B. Nos. 1171, 1173, 1306 § 1643, § 1; [L.1991, H.B. No. 185, § A](#); [L.1993, S.B. No. 253, § A](#); [L.1993, S.B. No. 394, § A](#); [L.1994, S.B. No. 595, § A](#); [L.1998, H.B. No. 1556, § A](#); [L.2000, S.B. Nos. 757 & 602, § A](#); [L.2002, S.B. Nos. 923, 828, 876, 694 & 736, § A](#); [L.2003, H.B. No. 445, § A](#).)

## CROSS REFERENCES

Prenatal care, use of alcohol, controlled substances, and cigarettes, see [§ 191.725](#) et seq.

## LAW REVIEW AND JOURNAL COMMENTARIES

Mandated voices for the vulnerable: An examination of the constitutionality of Missouri's mandatory child abuse reporting statute. Jessica Ann Toth Johns, [72 UMKC L.Rev. 1083 \(2004\)](#).

Parental refusals of consent: The obligations of Missouri health care providers. Alfred R. Hupp, Jr., *57 UMKC L.Rev.* 717 (1989).

## LIBRARY REFERENCES

2004 Main Volume

Infants k13.5.  
Westlaw Topic No. 211.

## NOTES OF DECISIONS

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[1/2](#). Validity

Statute criminalizing a health professional's failure to report child abuse upon "reasonable cause to suspect" abuse was not unconstitutionally vague or void for vagueness, as the phrase "reasonable cause to suspect," a phrase that

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had been part of state law for more than a century, was readily understandable by ordinary persons, consisting of words of common understanding that spoke for themselves, and, as applied to defendant's case, facts showed that child died of "abusive head trauma" four days after being treated by defendant, a nurse who, despite recording obvious symptoms of abuse, allowed child to return to foster care without reporting suspected abuse. [State v. Brown \(Sup. 2004\) 140 S.W.3d 51](#). Infants  12(9)

## 1. In general

Criminal acts exclusion in professional liability insurance policy, barring coverage for insured's criminal act or omission, did not preclude coverage, under Missouri law, for sexual abuse victim's claim, in underlying suit, that insured psychologist negligently failed to inform victim or her mother that her father, the insured's client, posed a future risk of sexual abuse to victim; no Missouri statute or case law made failure to warn victim of possibility of future abuse criminal, and insured's common law duty to warn was distinguishable from his statutory duty to notify authorities of suspected child abuse. [American Home Assur. Co. v. Pope, C.A.8 \(Mo.\)2004, 360 F.3d 848](#). Insurance  2278(4)

Parents' admitted refusal to allow son to attend high school on days he did not first complete his home chores and parents' practice of handcuffing son were reasonably considered to be probable cause to believe that son was being subjected to form of neglect or abuse arguably prohibited by state law, so that school officials were obligated by statute to report any observed information about suspected neglect of son and division of family services was required to undertake thorough investigation, which would reasonably include interview with son, and failure to inform parents of interview did not violate their constitutional rights to privacy, to due process, to control education of their son, or to exist as a family. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Constitutional Law  82(10); Constitutional Law  274(5); Infants  13.5(1); Infants  17

Failure to give parents notice of intended interviews with child about possible abuse, to secure parents' permission for interviews, or to allow parents to be present during interviews protected State's very strong interests in protecting child and learning in timely fashion what the child had to relate about the matter, without being possibly limited by presence of his parents, and that interest was paramount to personal interests of parents in preventing false accusations. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Infants  17

Parents are not entitled to participate in child abuse investigations with the authorities. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Infants  13

School and division of family services employees were protected by qualified immunity for any violation of parents' rights in conducting interview with son without informing parents, where parents' refusal to allow son to attend high school on days he did not first complete his home chores and parents' practice of handcuffing son were reasonably considered to be probable cause to believe that son was being subjected to form of neglect or abuse prohibited by state law. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1376(4); Civil Rights  1376(5)

Allegations that private person acted jointly with state official are sufficient to allege that he acted under color of state law for purposes of federal civil rights claim. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1326(5)

Allegations that defendant acted in concert with chief deputy juvenile officer and as agent of officer in transfer of custody, care, and control of child from his parents to defendant without court order or other legal authority and in violation of state law sufficiently alleged that she acted under color of state law. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1326(5)

Without allegations that they acted in concert with county official, defendants, standing alone in positions of foster parents, did not act under color of state law in assuming custody of child. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1326(1)

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Where determination of parents' federal constitutional rights involved weighing and comparison of interests of parents and interests of state and school district in protecting child, superintendent could not have had any notice that actions of principal would violate parents' rights, and they could not state cause of action against him under § 1983. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1356

Juvenile officer did not violate parents' rights by making statements to juvenile court, where factual allegations, which supported determination of probable cause, were undisputed by parents. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1057

This section created only duty to public and not to individuals, and cannot be said to support cause of action in favor of individuals. [Nelson v. Freeman, W.D.Mo.1982, 537 F.Supp. 602](#), affirmed [706 F.2d 276](#). Infants 🔑 156

Though plaintiffs alleged that defendants "wilfully refused" to perform duty mandated by Missouri child abuse statute and demonstrated "complete indifference to or conscious disregard for the safety of others," such allegations did not state cause of action under Missouri law. [Nelson v. Freeman, W.D.Mo.1982, 537 F.Supp. 602](#), affirmed [706 F.2d 276](#). Negligence 🔑 1516; Negligence 🔑 1523

Where no private cause of action could be implied under Child Abuse Reporting Act, alleged breach of Act did not amount to negligence per se. [Bradley v. Ray \(App. W.D. 1995\) 904 S.W.2d 302](#), rehearing and/or transfer denied. Infants 🔑 13.5(2)

This section and §§ 210.130, 210.145 and 210.15 governing responsibility to report suspected sexual abuse of child add possibility of punishment to sociological purposes of reporting incidents of child abuse and of provision for prevention of recurrence by therapy. [State v. Brydon \(App. W.D. 1981\) 626 S.W.2d 443](#). Infants 🔑 13

### 2. Reasonable cause to suspect abuse

Where there was reasonable cause to believe that child was subject of neglect or abuse, juvenile officer could take child into temporary protective custody to avoid perceived danger of personal harm by child remaining in his parents' residence, and doing so did not violate any clearly established civil rights of parents, so that officer was entitled to qualified immunity. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1376(2)

Statutory duty of administrators of special school district in Missouri to report child abuse when there was a reasonable cause to suspect such abuse did not create a ministerial requirement in Missouri to report every suspicion of abuse. [Doe A v. Special School Dist. of St. Louis County, E.D.Mo.1986, 637 F.Supp. 1138](#). Infants 🔑 13.5(1)

By use of term "reasonable cause to believe," the legislature did not intend to require that level of proof which would normally be associated with reasonable or probable cause; the term as used in former provisions of this section was the equivalent of the term "suspected" as used in 45 C.F.R. § 1340.33(d)(2)(i). Op.Atty.Gen. No. 147, Rothman, 6-2-75.

### 3. Private actions

No private right of action existed for violation of Missouri statute requiring psychologists to report suspected child abuse. [American Home Assur. Co. v. Pope, C.A.8 \(Mo.\)2004, 360 F.3d 848](#). Infants 🔑 13.5(2)

Missouri statute which requires school official, on reasonable cause, to report suspected child abuse does not create private cause of action on behalf of students or their parents when students allegedly have been abused by teacher after principal has failed to report earlier allegations of abuse of others by the teacher. [Letlow By and Through Bacon v. Evans, W.D.Mo.1994, 857 F.Supp. 676](#). Action 🔑 3; Infants 🔑 13

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This section created no duty in nonsupervisory public school teacher to report alleged sexual misconduct by fellow teacher toward female students to law enforcement or child protective agencies such as would support students' § 1983 action against the nonsupervisory teacher. [Thelma D. v. Board of Educ. of City of St. Louis, E.D.Mo.1987, 669 F.Supp. 947](#). Civil Rights 🔑 1057

It is established state court rule of decision that statute which creates duty to public, and to individuals only as members of public, will not support private cause of action in favor of individuals. [Nelson v. Freeman, W.D.Mo.1982, 537 F.Supp. 602](#), affirmed [706 F.2d 276](#). Municipal Corporations 🔑 723

Child Abuse Reporting Act, making it a misdemeanor for certain professionals to fail to report suspected child abuse, did not confer private right of action on client's stepdaughter against client's psychologists for failing to report client's suspected abuse of stepdaughter, though stepdaughter was member of class intended to be protected by statute, because Act did not expressly provide civil remedy, but provided criminal penalties as other means of enforcement. [Bradley v. Ray \(App. W.D. 1995\) 904 S.W.2d 302](#), rehearing and/or transfer denied. Action 🔑 3

#### 4. Duty to report abuse

Petition sufficiently alleged that psychologists owed and breached common-law duty to warn appropriate authorities that client presented serious danger of violence to his stepdaughter to state negligence claim against them, where it alleged that psychologists were aware that client was sexually abusing stepdaughter but failed to report abuse to any law enforcement authorities during counseling or afterwards. [Bradley v. Ray \(App. W.D. 1995\) 904 S.W.2d 302](#), rehearing and/or transfer denied. Infants 🔑 13.5(2); Health 🔑 757

#### 5. Aiding and abetting abuse

Petition did not state claim against psychologists for aiding and abetting client's sexual abuse of stepdaughter, even assuming Missouri law recognized cause of action for aiding and abetting commission of intentional tort, where petition failed to allege that psychologists affirmatively acted by giving substantial assistance or encouragement to client to abuse stepdaughter, but merely alleged that psychologists shielded client from discovery and criminal prosecution. [Bradley v. Ray \(App. W.D. 1995\) 904 S.W.2d 302](#), rehearing and/or transfer denied. Infants 🔑 13.5(2); Health 🔑 757

#### 6. Qualified immunity

Where juvenile officer who took child into custody was protected from liability by qualified immunity, so too were foster parents in whose care he placed child. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1376(1)

Where division of family services employee entered parents' home, not to search for evidence of crime or juvenile neglect or abuse but, rather, to obtain child's possessions for transfer of his custody to foster parents, and where parents did not allege that entry violated their rights, any federal constitutional right in them to prevent employee from gathering child's clothes after she was in the residence was not clearly established, if it existed at all, and she was protected from liability by qualified immunity. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1376(4)

School principal was entitled to qualified immunity for any violation of parents' rights when he allowed child to leave school grounds with foster parents before school was dismissed for the day, without a court order, without notifying parents, and without parental permission, knowledge, or consent, where scenario presented to him involved foster parents being allowed by county juvenile officer to accept child into their home, apparently on a foster parent basis, with everyone's knowledge of facts which arguably established probable cause to believe that child was victim of neglect and abuse. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights 🔑 1376(5)

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7. Juvenile officer

Juvenile officer was absolutely immune from liability for his role in initiating juvenile court proceedings, as his action was functionally comparable to that of prosecutor. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1376(4)

Juvenile officer was entitled to absolute immunity afforded witness with respect to claim that he filed false and misleading allegations of criminal child abuse with prosecuting attorney. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1376(4)

Juvenile officer was protected by the absolute immunity afforded to witnesses for his role in providing information to state court upon which it acted. [Hawley v. Nelson, E.D.Mo.1997, 968 F.Supp. 1372](#), affirmed [141 F.3d 1168](#). Civil Rights  1376(4)

8. Review

Trial court's order granting defendant's motion to dismiss information charging her with crime of failure to report child abuse on ground of unconstitutionally vague criminal statute was a final, rather than interlocutory, judgment, and thus, statute limiting State's right to file interlocutory appeals to within five days of contested order was inapplicable, thereby allowing State ten days to appeal final judgment; defendant claimed on appeal that State's notice was untimely for having been filed six days after trial court's judgment. [State v. Brown \(Sup. 2004\) 140 S.W.3d 51](#). Criminal Law  1024(2)

Trial court's order granting defendant's motion to dismiss information charging her with crime of failure to report child abuse on ground of unconstitutionally vague criminal statute was a final, rather than interlocutory, judgment, and thus, statute granting State right to pursue interlocutory appeals only in limited cases, which did not include those pertaining to constitutionality of statutes, was inapplicable, and Supreme Court had jurisdiction of appeal. [State v. Brown \(Sup. 2004\) 140 S.W.3d 51](#). Criminal Law  1024(2)

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Statutes and Constitution are current through West ID numbers 1, 5, 8, 9, 10, 11, 12, 13, 14, 17, 18, 47, 50, 56, 61, 70, 77, 87, 106, 132, 139, and 152 of the 93rd General Assembly (2005).

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