

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1323, Page 1, Section A, Line 2, by
2 inserting after all of said line the following:

3
4 “210.211. 1. It shall be unlawful for any person to establish, maintain or operate a
5 child-care facility for children, or to advertise or hold himself or herself out as being able to
6 perform any of the services as defined in section 210.201, without having in effect a written
7 license granted by the department of health and senior services; except that nothing in sections
8 210.203 to 210.245 shall apply to:

9 (1) Any person who is caring for four or fewer children. For purposes of this subdivision,
10 children who are related by blood, marriage or adoption to such person within the third degree
11 shall not be considered in the total number of children being cared for;

12 (2) Any person who has been duly appointed by a court of competent jurisdiction the
13 guardian of the person of the child or children, or the person who has legal custody of the child or
14 children;

15 (3) Any person who receives free of charge, and not as a business, for periods not
16 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or
17 children of personal friends of such person, and who receives custody of no other unrelated child
18 or children;

19 (4) Any graded boarding school, summer camp, hospital, sanitarium or home which is
20 conducted in good faith primarily to provide education, recreation, medical treatment, or nursing
21 or convalescent care for children;

22 (5) Any child-care facility maintained or operated under the exclusive control of a

1 religious organization. When a nonreligious organization, having as its principal purpose the
2 provision of child-care services, enters into an arrangement with a religious organization for the
3 maintenance or operation of a child-care facility, the facility is not under the exclusive control of
4 the religious organization;

5 (6) Any residential facility or day program licensed by the department of mental health
6 pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation
7 exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental
8 retardation or developmental disability, as defined in section 630.005; and

9 (7) Any nursery school.

10 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility
11 shall be exempt from licensure if such facility receives any state or federal funds for providing
12 care for children, except for federal funds for those programs which meet the requirements for
13 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to
14 parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds
15 received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

16 3. Any child-care facility exempt from licensure shall disclose the licensure exempt status
17 of the facility to the parents or guardians of children for which the facility provides care.

18 210.245. 1. Any person who violates any provision of sections 210.201 to 210.245, or
19 who for such person or for any other person makes materially false statements in order to obtain a
20 license or the renewal thereof pursuant to sections 210.201 to 210.245, [shall be] is guilty of an
21 infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and
22 [shall be] is guilty of a class A misdemeanor and shall be assessed a fine of two hundred dollars
23 per day, not to exceed a total of ten thousand dollars for subsequent offenses. In case such guilty
24 person is a corporation, association, institution or society, the officers thereof who participate in
25 such misdemeanor shall be subject to the penalties provided by law.

26 2. If the department of health and senior services proposes to deny, suspend, place on

1 probation or revoke a license, the department of health and senior services shall serve upon the
2 applicant or licensee written notice of the proposed action to be taken. The notice shall contain a
3 statement of the type of action proposed, the basis for it, the date the action will become effective,
4 and a statement that the applicant or licensee shall have thirty days to request in writing a hearing
5 before the administrative hearing commission and that such request shall be made to the
6 department of health and senior services. If no written request for a hearing is received by the
7 department of health and senior services within thirty days of the delivery or mailing by certified
8 mail of the notice to the applicant or licensee, the proposed discipline shall take effect on the
9 thirty-first day after such delivery or mailing of the notice to the applicant or licensee. If the
10 applicant or licensee makes a written request for a hearing, the department of health and senior
11 services shall file a complaint with the administrative hearing commission within ninety days of
12 receipt of the request for a hearing.

13 3. The department of health and senior services may issue letters of censure or warning
14 without formal notice or hearing. Additionally, the department of health and senior services may
15 place a licensee on probation pursuant to chapter 621.

16 4. The department of health and senior services may suspend any license simultaneously
17 with the notice of the proposed action to be taken in subsection 2 of this section, if the department
18 of health and senior services finds that there is a threat of imminent bodily harm to the children in
19 care. The notice of suspension shall include the basis of the suspension and the appeal rights of
20 the licensee pursuant to this section. The licensee may appeal the decision to suspend the license
21 to the department of health and senior services. The appeal shall be filed within ten days from the
22 delivery or mailing by certified mail of the notice of appeal. A hearing shall be conducted by the
23 department of health and senior services within ten days from the date the appeal is filed. The
24 suspension shall continue in effect until the conclusion of the proceedings, including review
25 thereof, unless sooner withdrawn by the department of health and senior services, dissolved by a
26 court of competent jurisdiction or stayed by the administrative hearing commission. Any person

1 aggrieved by a final decision of the department made pursuant to this section shall be entitled to
2 judicial review in accordance with chapter 536.

3 5. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu
4 thereof, the prosecuting attorney of the county where the child-care facility is located may file suit
5 for a preliminary and permanent order overseeing or preventing the operation of a child-care
6 facility for violating any provision of sections 210.201 to 210.245. The order shall remain in
7 force until such a time as the court determines that the child-care facility is in substantial
8 compliance. If the prosecuting attorney refuses to act or fails to act after receipt of notice from the
9 department of health and senior services, the department of health and senior services may request
10 that the attorney general seek an injunction of the operation of such child-care facility.

11 6. In cases of imminent bodily harm to children in the care of a child-care facility, the
12 department may file suit in the circuit court of the county in which the child-care facility is located
13 for injunctive relief, which may include removing the children from the facility, overseeing the
14 operation of the facility or closing the facility.”; and

15
16 Further amend said bill by amending the title, enacting clause, and intersectional references
17 accordingly.