

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2202
100TH GENERAL ASSEMBLY

4384H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.025, 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, RSMo, and to enact in lieu thereof six new sections relating to child care.

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

Section A. Sections 210.025, 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, to read as follows:

210.201. As used in sections 210.201 to 210.257, the following terms mean:

(1) "Child", an individual who is under the age of seventeen;

(2) **"Child care", care of a child away from his or her home for any part of the twenty-four-hour day for compensation or otherwise. "Child care" is a voluntary supplement to parental responsibility for the child's protection, development, and supervision;**

(3) **"Child-care facility" or "child care facility"**, a house or other place conducted or maintained by any person who advertises or holds himself or herself out as providing **child care** for ~~more than six children during the daytime,~~ **any part of the twenty-four-hour day** for compensation or otherwise~~], except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. If a facility or~~

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.

18 ~~program is exempt from licensure based on the school exception established in this subdivision;~~
19 ~~such facility or program shall submit documentation annually to the department to verify its~~
20 ~~licensure-exempt status; except that, under no circumstances shall any public or religious~~
21 ~~organization elementary or secondary school, a religious organization academic preschool or~~
22 ~~kindergarten for four- and five-year-old children, a home school, as defined in section 167.031,~~
23 ~~a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while~~
24 ~~the parents or guardians are attending worship services or other meetings and activities~~
25 ~~conducted or sponsored by a religious organization be required to submit documentation~~
26 ~~annually to the department to verify its licensure-exempt status.]~~ **if providing child care to more**
27 **than:**

28 **(a) Six children; or**

29 **(b) Three children under two years of age;**

30 **(4) "Child care provider" or "provider", the person or persons licensed or**
31 **required to be licensed under section 210.221 to establish, conduct, or maintain a child care**
32 **facility;**

33 **(5) "Montessori school", a child care program that subscribes to Maria**
34 **Montessori's educational philosophy and that is accredited by the American Montessori**
35 **Society or the Association Montessori Internationale;**

36 **(6) "Neighborhood youth development program", as described in section 210.278;**

37 **(7) "Nursery school", a program operated by a person or an organization with the**
38 **primary function of providing an educational program for preschool-age children for no**
39 **more than four hours per day per child;**

40 ~~[(3)]~~ **(8) "Person", any [person] individual, firm, corporation, partnership, association,**
41 ~~[institution or other incorporated or unincorporated organization]~~ **agency, or an incorporated**
42 **or unincorporated organization regardless of the name used;**

43 ~~[(4)]~~ **(9) "Religious organization", a church, synagogue or mosque; an entity that has or**
44 **would qualify for federal tax-exempt status as a nonprofit religious organization under Section**
45 **501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care**
46 **facility is located is exempt from taxation because it is used for religious purposes;**

47 **(10) "School system", a program established primarily for education and that**
48 **meets the following criteria:**

49 **(a) Provides education in at least the first to the sixth grade; and**

50 **(b) Provides evidence that the school system's records will be accepted by a public**
51 **or private school for the transfer of any student;**

52 **(11) "Summer camp", a program operated from May to September by a person or**
53 **organization with the primary function of providing a summer recreational program for**

54 **children five years of age or older and providing no child care for children under five years**
55 **of age in the same building or in the same outdoor play area.**

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

(1) Any person who is caring for six or fewer children, including a maximum of three children under the age of two, at the same physical address. For purposes of this subdivision, children who live in the caregiver's home and who are eligible for enrollment in a public kindergarten, elementary, or high school shall not be considered in the total number of children being cared for;

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

(3) ~~Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children]~~ **that is conducted in good faith primarily to provide education;**

(4) ~~[Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;~~

~~Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, intellectual disability or developmental disability, as defined in section 630.005]~~ **Any summer camp that is conducted in good faith primarily to provide recreation; [and**

~~(6) Any nursery school]~~ **(5) Any hospital, sanitarium, or home that is conducted in good faith primarily to provide medical treatment or nursing or convalescent care for children;**

(6) Any residential facility or day program licensed by the department of mental health under sections 630.705 to 630.760 that provides care, treatment, and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness,

35 intellectual disability, or developmental disability, as those terms are defined in section
36 630.005;

37 (7) Any school system as defined in section 210.201;

38 (8) Any Montessori school as defined in section 210.201;

39 (9) Any business that operates a child care program for the convenience of its
40 customers if the following conditions are met:

41 (a) The business provides child care for employees' children for no more than four
42 hours per day; and

43 (b) Customers remain on site while their children are being cared for by the
44 business establishment;

45 (10) Any home school as defined in section 167.031;

46 (11) Any religious organization academic preschool or kindergarten for four- and
47 five-year-old children;

48 (12) Any weekly Sunday or Sabbath school, a vacation bible school, or child care
49 made available while the parents or guardians are attending worship services or other
50 meetings and activities conducted or sponsored by a religious organization;

51 (13) Any neighborhood youth development program under section 210.278;

52 (14) Any religious organization elementary or secondary school;

53 (15) Any private organization elementary or secondary

54 school system providing child care to children younger than school age. If a facility or
55 program is exempt from licensure based upon this exception, such facility or program shall
56 submit documentation annually to the department to verify its licensure-exempt status;

57 (16) Any nursery school as defined in section 210.201; and

58 (17) Any child care facility maintained or operated under the exclusive control of
59 a religious organization. If a nonreligious organization having as its principal purpose the
60 provision of child care services enters into an arrangement with a religious organization
61 for the maintenance or operation of a child care facility, the facility is not under the
62 exclusive control of the religious organization.

63 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility
64 shall be exempt from licensure if such facility receives any state or federal funds for providing
65 care for children, except for federal funds for those programs which meet the requirements for
66 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. Section 1766.
67 Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed
68 to be funds received by a person or facility listed in subdivisions (1) and ~~[(4)]~~ (17) of subsection
69 1 of this section.

70 3. Any child care facility not exempt from licensure shall disclose the licensure status
71 of the facility to the parents or guardians of children for which the facility provides care. No
72 child care facility exempt from licensure shall represent to any parent or guardian of children for
73 which the facility provides care that the facility is licensed when such facility is in fact not
74 licensed. A parent or guardian shall sign a written notice indicating he or she is aware of the
75 licensure status of the facility. The facility shall keep a copy of this signed written notice on file.
76 All child care facilities shall provide the parent or guardian enrolling a child in the facility with
77 a written explanation of the disciplinary philosophy and policies of the child care facility.

 210.221. 1. The department of health and senior services shall have the following
2 powers and duties:

3 (1) After inspection, to grant licenses to persons to operate child-care facilities if
4 satisfied as to the good character and intent of the applicant and that such applicant is qualified
5 and equipped to render care or service conducive to the welfare of children~~], and to renew the~~
6 ~~same when expired. No license shall be granted for a term exceeding two years].~~ Each license
7 shall specify the kind of child-care services the licensee is authorized to perform, the number of
8 children that can be received or maintained, and their ages and sex;

9 (2) To inspect the conditions of the homes and other places in which the applicant
10 operates a child-care facility, inspect their books and records, premises and children being
11 served, examine their officers and agents, deny, suspend, place on probation or revoke the license
12 of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and
13 regulations made by the department of health and senior services. The director also may revoke
14 or suspend a license when the licensee fails to renew or surrenders the license;

15 (3) To promulgate and issue rules and regulations the department deems necessary or
16 proper in order to establish standards of service and care to be rendered by such licensees to
17 children. No rule or regulation promulgated by the division shall in any manner restrict or
18 interfere with any religious instruction, philosophies or ministries provided by the facility and
19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed;

21 (4) To approve training concerning the safe sleep recommendations of the American
22 Academy of Pediatrics in accordance with section 210.223; and

23 (5) To determine what records shall be kept by such persons and the form thereof, and
24 the methods to be used in keeping such records, and to require reports to be made to the
25 department at regular intervals.

26 2. Any child-care facility may request a variance from a rule or regulation promulgated
27 pursuant to this section. The request for a variance shall be made in writing to the department
28 of health and senior services and shall include the reasons the facility is requesting the variance.

29 The department shall approve any variance request that does not endanger the health or safety
30 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
31 variance application shall be with the department of health and senior services. Local inspectors
32 may grant a variance, subject to approval by the department of health and senior services.

33 3. The department shall deny, suspend, place on probation or revoke a license if it
34 receives official written notice that the local governing body has found that license is prohibited
35 by any local law related to the health and safety of children. The department may deny an
36 application for a license if the department determines that a home or other place in which an
37 applicant would operate a child-care facility is located within one thousand feet of any location
38 where a person required to register under sections 589.400 to 589.425 either resides, as that term
39 is defined in subsection 3 of section 566.147, or regularly receives treatment or services,
40 excluding any treatment or services delivered in a hospital, as that term is defined in
41 section 197.020, or in facilities owned or operated by a hospital system. The department may,
42 after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
43 interest of the state.

44 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
45 under the authority delegated in sections 210.201 to 210.245 shall become effective only if it
46 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
47 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
48 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
49 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
50 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
51 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
52 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
53 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.252. 1. All buildings and premises used by a child-care facility to care for more than
2 six children except those exempted from the licensing provisions of the department of health and
3 senior services pursuant to subdivisions ~~[(1), (2), (3), and (5)]~~ **(1) to (15) of subsection 1** of
4 section 210.211, shall be inspected annually for fire and safety by the state fire marshal, the
5 marshal's designee or officials of a local fire district and for health and sanitation by the
6 department of health and senior services or officials of the local health department. Evidence
7 of compliance with the inspections required by this section shall be kept on file and available to
8 parents of children enrolling in the child-care facility.

9 2. Local inspection of child-care facilities may be accomplished if the standards
10 employed by local personnel are substantially equivalent to state standards and local personnel
11 are available for enforcement of such standards.

12 3. Any child-care facility may request a variance from a rule or regulation promulgated
13 pursuant to this section. The request for a variance shall be made in writing to the department
14 of health and senior services and shall include the reasons the facility is requesting the variance.
15 The department shall approve any variance request that does not endanger the health or safety
16 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
17 variance application shall be with the department of health and senior services. Local inspectors
18 may grant a variance, subject to approval by the department.

19 4. The department of health and senior services shall administer the provisions of
20 sections 210.252 to 210.256, with the cooperation of the state fire marshal, local fire departments
21 and local health agencies.

22 5. The department of health and senior services shall promulgate rules and regulations
23 to implement and administer the provisions of sections 210.252 to 210.256. Such rules and
24 regulations shall provide for the protection of children in all child-care facilities whether or not
25 such facility is subject to the licensing provisions of sections 210.201 to 210.245.

26 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
27 under the authority delegated in sections 210.252 to 210.256 shall become effective only if it
28 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
29 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
30 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
31 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
32 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
33 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
34 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
35 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.254. 1. Child-care facilities operated by religious organizations pursuant to the
2 exempt status recognized in subdivision ~~[(4)]~~ (17) of subsection 1 of section 210.211 shall upon
3 enrollment of any child provide the parent or guardian enrolling the child two copies of a notice
4 of parental responsibility, one copy of which shall be retained in the files of the facility after the
5 enrolling parent acknowledges, by signature, having read and accepted the information contained
6 therein.

7 2. The notice of parental responsibility shall include the following:

8 (1) Notification that the child-care facility is exempt as a religious organization from
9 state licensing and therefore not inspected or supervised by the department of health and senior
10 services other than as provided herein and that the facility has been inspected by those designated
11 in section 210.252 and is complying with the fire, health and sanitation requirements of sections
12 210.252 to 210.257;

13 (2) The names, addresses and telephone numbers of agencies and authorities which
14 inspect the facility for fire, health and safety and the date of the most recent inspection by each;

15 (3) The staff/child ratios for enrolled children under two years of age, for children ages
16 two to four and for those five years of age and older as required by the department of health and
17 senior services regulations in licensed facilities, the standard ratio of staff to number of children
18 for each age level maintained in the exempt facility, and the total number of children to be
19 enrolled by the facility;

20 (4) Notification that background checks have been conducted under the provisions of
21 section 210.1080;

22 (5) The disciplinary philosophy and policies of the child-care facility; and

23 (6) The educational philosophy and policies of the child-care facility.

24 3. A copy of notice of parental responsibility, signed by the principal operating officer
25 of the exempt child-care facility and the individual primarily responsible for the religious
26 organization conducting the child-care facility and copies of the annual fire and safety
27 inspections shall be filed annually during the month of August with the department of health and
28 senior services.

210.1080. 1. As used in this section, the following terms mean:

2 (1) **"Child care provider", a person licensed, regulated, or registered to provide**
3 **child care within the state of Missouri, including the member or members, manager or**
4 **managers, shareholder or shareholders, director or directors, and officer or officers of any**
5 **entity licensed, regulated, or registered to provide child care within the state of Missouri;**

6 (2) "Child care staff member", a child care provider; persons employed by the child care
7 provider for compensation, including contract employees or self-employed individuals;
8 individuals or volunteers whose activities involve the care or supervision of children for a child
9 care provider or unsupervised access to children who are cared for or supervised by a child care
10 provider; ~~and~~ individuals residing in a family child care home who are seventeen years of age
11 ~~and~~ **or older before January 1, 2021, or eighteen years of age or older on or after January**
12 **1, 2021; or individuals residing in a family child care home who are under seventeen years**
13 **of age before January 1, 2021, or under eighteen years of age on or after January 1, 2021**
14 **and have been certified as an adult for the commission of an offense;**

15 ~~[(2)]~~ (3) "Criminal background check":

16 (a) A Federal Bureau of Investigation fingerprint check;

17 (b) A search of the National Crime Information Center's National Sex Offender Registry;

18 and

19 (c) A search of the following registries, repositories, or databases in Missouri, the state
20 where the child care staff member resides, and each state where such staff member resided
21 during the preceding five years:

22 a. The state criminal registry or repository, with the use of fingerprints being required
23 in the state where the staff member resides and optional in other states;

24 b. The state sex offender registry or repository; and

25 c. The state-based child abuse and neglect registry and database;

26 **(4) "Designated department", the department to which criminal background check**
27 **results are sent; the department of health and senior services for child care staff members**
28 **or prospective child care staff members of licensed child care facilities; and the department**
29 **of social services for child care staff members or prospective child care staff members of**
30 **a license-exempt child care facility or an unlicensed child care facility registered with the**
31 **department of social services under section 210.027;**

32 **(5) "Qualifying result" or "qualifying criminal background check", a finding that**
33 **a child care staff member or prospective child care staff member is eligible for employment**
34 **or presence in a child care setting described under this section.**

35 2. (1) Prior to the employment or presence of a child care staff member in a ~~[family~~
36 ~~child care home, group child care home, child care center, or license-exempt]~~ **licensed** child care
37 facility, the child care provider shall request the results of a criminal background check for such
38 child care staff member from the department of health and senior services.

39 **(2) Prior to the employment or presence of a child care staff member in a**
40 **license-exempt child care facility or an unlicensed child care facility registered with the**
41 **department of social services, the child care provider shall request the results of a criminal**
42 **background check for such child care staff member from the department of social services.**

43 **(3) A prospective child care staff member may begin work for a child care provider after**
44 **the [criminal background check has been requested] qualifying result of either a Federal**
45 **Bureau of Investigation fingerprint check or a search of the Missouri criminal registry or**
46 **repository with the use of fingerprints has been received from the designated department;**
47 **however, pending completion of the criminal background check, the prospective child care staff**
48 **member shall be supervised at all times by another child care staff member who received a**
49 **qualifying result on the criminal background check within the past five years.**

50 ~~[(3) A family child care home, group child care home, child care center, or~~
51 ~~license-exempt child care facility that has child care staff members at the time this section~~
52 ~~becomes effective shall request the results of a criminal background check for all child care staff~~
53 ~~members by January 31, 2019, unless the requirements of subsection 5 of this section are met~~

54 ~~by the child care provider and proof is submitted to the department of health and senior services~~
55 ~~by January 31, 2019.]~~

56 **(4) Any individual who meets the definition of child care provider but is not**
57 **responsible for the oversight or direction of the child care facility and does not have**
58 **independent access to the child care facility is not required to request the results of a**
59 **criminal background check under this section; however, such individual shall be**
60 **accompanied by an individual with a qualifying criminal background check in order to be**
61 **present at the child care facility during child care hours.**

62 3. The costs of the criminal background check shall be the responsibility of the child care
63 staff member but may be paid or reimbursed by the child care provider at the provider's
64 discretion. The fees charged for the criminal background check shall not exceed the actual cost
65 of processing and administration.

66 4. ~~[Except as otherwise provided in subsection 2 of this section,]~~ Upon completion of
67 the criminal background check, any child care staff member or prospective child care staff
68 member shall be ineligible for employment or presence at a ~~[family child care home, a group~~
69 ~~child care home, a licensed child care center, or a license-exempt]~~ **licensed or license-exempt**
70 **child care facility or an unlicensed child care facility registered with the department of**
71 **social services and shall be disqualified from receipt of state or federal funds for providing**
72 **child care services either by direct payment or through reimbursement to an individual**
73 **who receives child care benefits** if such person:

74 (1) Refuses to consent to the criminal background check as required by this section;

75 (2) Knowingly makes a materially false statement in connection with the criminal
76 background check as required by this section;

77 (3) Is registered, or is required to be registered, on a state sex offender registry or
78 repository or the National Sex Offender Registry;

79 (4) ~~[Has a finding]~~ **Is listed as a perpetrator** of child abuse or neglect under ~~[section~~
80 ~~210.145 or 210.152]~~ **sections 210.109 to 210.183** or any other finding of child abuse or neglect
81 based on any other state's registry or database; or

82 (5) Has ~~[been convicted of a felony consisting of]~~ **pled guilty or nolo contendere to or**
83 **been found guilty of:**

84 (a) ~~[Murder, as described in 18 U.S.C. Section 1111;~~

85 ~~— (b) Child abuse or neglect;~~

86 ~~— (c) A crime against children, including child pornography;~~

87 ~~— (d) Spousal abuse;~~

88 ~~— (e) A crime involving rape or sexual assault;~~

89 ~~— (f) Kidnapping;~~

90 ~~_____ (g) Arson;~~
91 ~~_____ (h) Physical assault or battery; or~~
92 ~~_____ (i) Subject to subsection 5 of this section, a drug-related offense committed during the~~
93 ~~preceding five years]~~ **Any felony for an offense against the person as defined in chapter 565;**
94 **(b) Any other offense against the person involving the endangerment of a child as**
95 **prescribed by law;**
96 **(c) Any misdemeanor or felony for a sexual offense as defined in chapter 566;**
97 **(d) Any misdemeanor or felony for an offense against the family as defined in**
98 **chapter 568;**
99 **(e) Burglary in the first degree as defined in 569.160;**
100 **(f) Any misdemeanor or felony for robbery as defined in chapter 570;**
101 **(g) Any misdemeanor or felony for pornography or related offense as defined in**
102 **chapter 573;**
103 **(h) Any felony for arson as defined in chapter 569;**
104 **(i) Any felony for armed criminal action as defined in section 571.015, unlawful use**
105 **of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in**
106 **section 571.070, or the unlawful possession of an explosive as defined in section 571.072;**
107 **(j) Any felony for making a terrorist threat as defined in section 574.115, 574.120,**
108 **or 574.125;**
109 **(k) A felony drug-related offense committed during the preceding five years; or**
110 **(l) Any similar offense in any federal, state, municipal, or other court of similar**
111 **jurisdiction of which the director of the designated department has knowledge;**
112 ~~[(6) Has been convicted of a violent misdemeanor committed as an adult against a child,~~
113 ~~including the following crimes: child abuse, child endangerment, or sexual assault, or of a~~
114 ~~misdemeanor involving child pornography; or~~
115 ~~_____ (7) Has been convicted of any similar crime in any federal, state, municipal, or other~~
116 ~~court.~~
117 ~~_____~~
118 ~~Adult household members seventeen years of age and older in a family child care home shall be~~
119 ~~ineligible to maintain a presence at a family child care home if any one or more of the provisions~~
120 ~~of this subsection applies to them.]~~
121 **5. Household members seventeen years of age or older before January 1, 2021, or**
122 **eighteen years of age or older on or after January 1, 2021, or household members under**
123 **seventeen years of age before January 1, 2021, or under eighteen years of age on or after**
124 **January 1, 2021 and have been certified as an adult for the commission of an offense shall**
125 **be ineligible to maintain a presence at a facility licensed as a family child care home during**

126 **child care hours if any one or more of the provisions of subsection 4 of this section apply**
127 **to such members.**

128 **6. A child care provider may also be disqualified from receipt of state or federal**
129 **funds for providing child care services either by direct payment or through reimbursement**
130 **to an individual who receives child care benefits if such person, or any person seventeen**
131 **years of age or older before January 1, 2021, or eighteen years of age or older on or after**
132 **January 1, 2021, residing in the household in which child care is being provided, excluding**
133 **child care provided in the child's home, has been refused licensure or has experienced**
134 **licensure suspension or revocation under section 210.221 or 210.496.**

135 **7. A child care provider shall not be required to submit a request for a criminal**
136 **background check under this section for a child care staff member if:**

137 (1) The staff member received a **qualifying** criminal background check within five years
138 before the latest date on which such a submission may be made and while employed by or
139 seeking employment by another child care provider within Missouri;

140 (2) The department of health and senior services **or the department of social services**
141 **provided to the first provider a qualifying criminal background check result, consistent with this**
142 **section, for the staff member; and**

143 (3) The staff member is employed by a child care provider within Missouri or has been
144 separated from employment from a child care provider within Missouri for a period of not more
145 than one hundred eighty consecutive days.

146 ~~[6.]~~ **8. (1) The department [of health and senior services shall process] processing the**
147 **request for a criminal background check for any prospective child care staff member or child care**
148 **staff member shall do so as expeditiously as possible, but not to exceed forty-five days after the**
149 **date on which the provider submitted the request.**

150 (2) The department shall provide the results of the criminal background check to the
151 child care provider in a statement that indicates whether the prospective child care staff member
152 or child care staff member is eligible or ineligible for employment or presence at the child care
153 facility **or receipt of state or federal funds for providing child care services either by direct**
154 **payment or through reimbursement to an individual who receives child care benefits.** The
155 department shall not reveal to the child care provider any disqualifying crime or other related
156 information regarding the prospective child care staff member or child care staff member.

157 (3) If such prospective child care staff member or child care staff member is ineligible
158 for employment or presence at the child care facility, the department shall, when providing the
159 results of criminal background check, include information related to each disqualifying crime
160 or other related information, in a report to such prospective child care staff member or child care

161 staff member, along with information regarding the opportunity to appeal under subsection [7]
162 9 of this section.

163 (4) If a prospective child care provider or child care provider has been denied state
164 or federal funds by the department of social services for providing child care, he or she
165 may appeal such denial to the department of social services.

166 [7-] 9. (1) The prospective child care staff member or child care staff member may
167 appeal a finding of ineligibility for employment or presence at a child care facility in writing
168 to the department that made the determination of ineligibility to challenge the accuracy or
169 completeness of the information contained in his or her criminal background check[, or] if his
170 or her finding of ineligibility is based on one or more of the following offenses:

- 171 (a) Murder, as described in 18 U.S.C. Section 1111;
- 172 (b) Felony child abuse or neglect;
- 173 (c) A felony crime against children, including child pornography;
- 174 (d) Felony spousal abuse;
- 175 (e) A felony crime involving rape or sexual assault;
- 176 (f) Felony kidnapping;
- 177 (g) Felony arson;
- 178 (h) Felony physical assault or battery;
- 179 (i) A violent misdemeanor offense committed as an adult against a child, including
180 the offense of child abuse, child endangerment, or sexual assault, or a misdemeanor offense
181 involving child pornography; or
- 182 (j) Any similar offense in any federal, state, municipal, or other court.

183 (2) If a finding of ineligibility is based on an offense not provided for in subdivision
184 (1) of this subsection, the prospective child care staff member or child care staff member
185 may appeal to challenge the accuracy or completeness of the information contained in his
186 or her criminal background check or to offer information mitigating the results and explaining
187 why an eligibility exception should be granted. ~~[The department of health and senior services
188 shall attempt to verify the accuracy of the information challenged by the individual, including
189 making an effort to locate any missing disposition information related to the disqualifying
190 crime.]~~

191 (3) The appeal shall be filed with the department that made the determination within
192 ten days from the [delivery or] mailing of the notice of ineligibility. ~~[The department shall make
193 a decision on the appeal in a timely manner.]~~ Such department shall attempt to verify the
194 accuracy of the information challenged by the individual, including making an effort to
195 locate any missing disposition information related to the disqualifying offense. After the
196 department verifies the accuracy of the information challenged by the individual, the

department shall forward the appeal to the child care background screening review committee established in subdivision (4) of this subsection. The child care background screening review committee shall make a final decision on the written appeal, and such decision shall be made in a timely manner. Such decision shall be considered a noncontested final agency decision by the department that made the determination of ineligibility under this section and appealable under section 536.150. Such decision shall be appealed within thirty days of the mailing of the decision.

(4) There is hereby established a "Child Care Background Screening Review Committee", which shall consist of the directors of the department of health and senior services and the department of social services or the directors' designee or designees.

(5) Any decision by the child care background screening review committee to grant an eligibility exception as allowed in this section shall only be made upon the approval of all committee members.

10. The department of health and senior services and the department of social services are authorized to enter into any agreements necessary to facilitate the sharing of information between the departments for the enforcement of this section including, but not limited to, the results of the criminal background check or any of its individual components.

11. Nothing in this section shall prohibit either the department of health and senior services or the department of social services from requiring more frequent checks of the family care safety registry established under section 210.903 or the central registry for child abuse established under section 210.109 in order to determine eligibility for employment or presence at the child care facility or receipt of state or federal funds for providing child care services either by direct payment or through reimbursement to an individual who receives child care benefits.

[8-] 12. The department of health and senior services and the department of social services may each adopt emergency rules to implement the requirements of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

[9- (1)] 13. The provisions of this section shall not apply to any child care facility, as defined in section 210.201, maintained or operated under the exclusive control of a religious

organization, as described in subdivision (4) of subsection 1 of section 210.211, unless such facility is a recipient of federal funds for providing care for children, except for federal funds for those programs that meet the requirements for participation in the Child and Adult Care Food Program under 42 U.S.C. Section 1766.

~~[(2) The provisions of this section, and any rules or regulations promulgated under this section, shall expire if 42 U.S.C. Section 9858f, as enacted by the Child Care and Development Block Grant (CCDBG) Act of 2014, and 45 CFR 98.43 are repealed or if Missouri no longer receives federal funds from the CCDBG.]~~

~~[210.025. 1. An applicant child care provider; persons employed by the applicant child care provider for compensation, including contract employees or self-employed individuals; individuals or volunteers whose activities involve the care or supervision of children for the applicant child care provider or unsupervised access to children who are cared for or supervised by the applicant child care provider; or individuals residing in the applicant's family child care home who are seventeen years of age or older shall be required to submit to a criminal background check under section 43.540 prior to an applicant being granted a registration and every five years thereafter and an annual check of the central registry for child abuse established in section 210.109 in order for the applicant to qualify for receipt of state or federal funds for providing child-care services either by direct payment or through reimbursement to a child-care beneficiary. Any costs associated with such checks shall be paid by the applicant.~~

~~2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the children's division shall:~~

~~(1) Determine if a finding of child abuse or neglect by probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, involving the applicant or any person over the age of seventeen who is living in the applicant's home has been recorded pursuant to section 210.145 or 210.221;~~

~~(2) Determine if the applicant or any person over the age of seventeen who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and~~

~~(3) Upon initial application, require the applicant to submit to fingerprinting and request a criminal background check of the applicant and any person over the age of seventeen who is living in the applicant's home pursuant to section 43.540 and section 210.487, and inquire of the applicant whether any children less than seventeen years of age residing in the applicant's home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.~~

~~3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant;~~

any person over the age of seventeen who is living in the applicant's home, and any child less than seventeen years of age who is living in the applicant's home and who the division has determined has been certified as an adult for the commission of a crime:

(1) Has had a finding of child abuse or neglect by probable cause prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, pursuant to section 210.145 or section 210.152;

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566; of any misdemeanor or felony for an offense against the family as defined in chapter 568, with the exception of the sale of fireworks, as defined in section 320.110, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds:

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of seventeen or less than seventeen who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home:

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080:

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of seventeen who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home:

7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the

effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

8. (1) The provisions of subsection 1 of this section shall not apply to any child care facility, as defined in section 210.201, maintained or operated under the exclusive control of a religious organization, as described in subdivision (4) of subsection 1 of section 210.211, unless such facility is a recipient of federal funds for providing care for children, except for federal funds for those programs that meet the requirements for participation in the Child and Adult Care Food Program under 42 U.S.C. Section 1766.

(2) The provisions of subsection 1 of this section, as enacted by the ninety-ninth general assembly, second regular session, and any rules or regulations promulgated under such section, shall expire if 42 U.S.C. Section 9858f, as enacted by the Child Care and Development Block Grant (CCDBG) Act of 2014, and 45 CFR 98.43 are repealed or if Missouri no longer receives federal funds from the CCDBG.]

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