

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 457
101ST GENERAL ASSEMBLY

1982H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 161.217, 210.201, 210.211, 210.251, and 210.252, RSMo, and to enact in lieu thereof five new sections relating to childcare, with an emergency clause.

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

Section A. Sections 161.217, 210.201, 210.211, 210.251, and 210.252, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 161.217, 210.201,
3 210.211, 210.251, and 210.252, to read as follows:

161.217. 1. The department of elementary and secondary education, in collaboration
2 with the Missouri Head Start State Collaboration Office and the departments of health and senior
3 services, mental health, and social services, shall develop~~[, as a three-year pilot program,]~~ a
4 voluntary early learning quality assurance report. The early learning quality assurance report
5 shall be developed based on evidence-based practices.

6 2. Participation in the early learning quality assurance report ~~[pilot]~~ program shall be
7 voluntary for any licensed or license-exempt early learning providers that are center-based or
8 home-based and are providing services for children from any ages from birth up to kindergarten.

9 3. The early learning quality assurance report may include, but is not limited to,
10 information regarding staff qualifications, instructional quality, professional development, health
11 and safety standards, parent engagement, and community engagement.

12 4. The early learning quality assurance report shall not be used for enforcement of
13 compliance with any law or for any punitive purposes.

14 5. The department of elementary and secondary education shall promulgate all necessary
15 rules and regulations for the administration of this section. Any rule or portion of a rule, as that
16 term is defined in section 536.010, that is created under the authority delegated in this section

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.

17 shall become effective only if it complies with and is subject to all of the provisions of chapter
18 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if
19 any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay
20 the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
21 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall
22 be invalid and void.

23 6. Under section 23.253 of the Missouri sunset act:

24 (1) The provisions of the new program authorized under this section shall automatically
25 sunset ~~[three years after August 28, 2019]~~ **four years after August 28, 2021**, unless reauthorized
26 by an act of the general assembly; and

27 (2) If such program is reauthorized, the program authorized under this section shall
28 automatically sunset ~~[three years]~~ **four years** after the effective date of the reauthorization of this
29 section; and

30 (3) This section shall terminate on September first of the calendar year immediately
31 following the calendar year in which the program authorized under this section is sunset.

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

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

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

6 (3) "Child-care facility" or "child care facility", a house or other place conducted or
7 maintained by any person who advertises or holds himself or herself out as providing child care
8 for any part of the twenty-four-hour day for compensation or otherwise if providing child care
9 to more than:

10 (a) Six children; or

11 (b) Three children under two years of age;

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

14 (5) "Montessori school", a child care program that ~~[subscribes to Maria Montessori's~~
15 ~~educational philosophy and that is accredited by the American Montessori Society or the~~
16 ~~Association Montessori Internationale]~~ **is either accredited by, actively seeking accreditation**
17 **by, or maintains an active school membership with the American Montessori Society, the**
18 **Association Montessori Internationale, the International Montessori Counsel, or the**
19 **Montessori Educational Programs International;**

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

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

24 (8) "Person", any individual, firm, corporation, partnership, association, agency, or an
25 incorporated or unincorporated organization regardless of the name used;

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

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

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

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

35 (11) "Summer camp", a program operated from May to September by a person or
36 organization with the primary
37 function of providing a summer recreational program for children five years of age or older and
38 providing no child care for children under five years of age in the same building or in the same
39 outdoor play area.

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

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

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

15 (3) Any graded boarding school that is conducted in good faith primarily to provide
16 education;

17 (4) Any summer camp that is conducted in good faith primarily to provide recreation;

- 18 (5) Any hospital, sanitarium, or home that is conducted in good faith primarily to provide
19 medical treatment or nursing or convalescent care for children;
- 20 (6) Any residential facility or day program licensed by the department of mental health
21 under sections 630.705 to 630.760 that provides care, treatment, and habilitation exclusively to
22 children who have a primary diagnosis of mental disorder, mental illness, intellectual disability,
23 or developmental disability, as those terms are defined in section 630.005;
- 24 (7) Any school system as defined in section 210.201;
- 25 (8) Any Montessori school as defined in section 210.201;
- 26 (9) Any business that operates a child care program for the convenience of its customers
27 if the following conditions are met:
- 28 (a) The business provides child care for employees' children for no more than four hours
29 per day; and
- 30 (b) Customers remain on site while their children are being cared for by the business
31 establishment;
- 32 (10) Any home school as defined in section 167.031;
- 33 (11) Any religious organization academic preschool or kindergarten for four- and five-
34 year-old children;
- 35 (12) Any weekly Sunday or Sabbath school, a vacation bible school, or child care made
36 available while the parents or guardians are attending worship services or other meetings and
37 activities conducted or sponsored by a religious organization;
- 38 (13) Any neighborhood youth development program under section 210.278;
- 39 (14) Any religious organization elementary or secondary school;
- 40 (15) Any private organization elementary or secondary school system providing child
41 care to children younger than school age. If a facility or program is exempt from licensure based
42 upon this exception, such facility or program shall submit documentation annually to the
43 department to verify its licensure-exempt status;
- 44 (16) Any nursery school as defined in section 210.201; and
- 45 (17) Any child care facility maintained or operated under the exclusive control of a
46 religious organization. If a nonreligious organization having as its principal purpose the
47 provision of child care services enters into an arrangement with a religious organization for the
48 maintenance or operation of a child care facility, the facility is not under the exclusive control
49 of the religious organization.
- 50 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility
51 shall be exempt from licensure if such facility receives any state or federal funds for providing
52 care for children, except for federal funds for those programs which meet the requirements for
53 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. Section 1766.

54 Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed
55 to be funds received by a person or facility listed in subdivisions (1) and (17) of subsection 1 of
56 this section.

57 3. Any child care facility not exempt from licensure shall disclose the licensure status
58 of the facility to the parents or guardians of children for which the facility provides care. No
59 child care facility exempt from licensure shall represent to any parent or guardian of children for
60 which the facility provides care that the facility is licensed when such facility is in fact not
61 licensed. A parent or guardian shall sign a written notice indicating he or she is aware of the
62 licensure status of the facility. The facility shall keep a copy of this signed written notice on file.
63 All child care facilities shall provide the parent or guardian enrolling a child in the facility with
64 a written explanation of the disciplinary philosophy and policies of the child care facility.

65 **4. Up to two children who are five years of age or older and who are related within**
66 **the third degree of consanguinity or affinity to, adopted by, or under court appointed**
67 **guardianship or legal custody of a child care provider who is responsible for the daily**
68 **operation of a licensed family child care facility that is organized as a corporation,**
69 **association, firm, partnership, limited liability company, sole proprietorship, or any other**
70 **type of business entity in this state shall not be included in the number of children counted**
71 **toward the maximum number of children for which the licensed family child care facility**
72 **is licensed under section 210.221. If more than one member of the corporation, association,**
73 **firm, partnership, limited liability company, or other business entity is responsible for the**
74 **daily operation of the licensed family child care facility, the related children of only one**
75 **such member shall be excluded. A licensed family child care facility caring for children**
76 **not counted in the maximum number of children, as permitted under this subsection, shall**
77 **disclose this to parents or guardians on the written notice required under subsection 3 of**
78 **this section. If a licensed family child care facility begins caring for children not counted**
79 **in the maximum number of children after a parent or guardian has signed the written**
80 **notice required under subsection 3 of this section, the licensed family child care facility**
81 **shall provide a separate notice to the parent or guardian that the licensed family child care**
82 **facility is caring for children not counted in the maximum number of children for which**
83 **the licensed family child care facility is licensed and shall keep a copy of the signed notice**
84 **on file.**

85 **5. Nothing in this section shall prevent the department from enforcing licensing**
86 **regulations promulgated under this chapter, including, but not limited to, supervision**
87 **requirements and capacity limitations based on the amount of child care space available.**

88 **6. Notwithstanding any other provision of law to the contrary, any licensed child**
89 **care licensed family child care facility receiving funding for a child in the facility's care**

90 **under the Child Care and Development Block Grant Act of 2014, as amended, and not**
91 **utilizing the exemptions outlined in this section, shall abide by the licensure provisions**
92 **required under this chapter to receive such funding.**

210.251. 1. By January 1, 1994, financial incentives shall be provided by the department
2 of health and senior services through the child development block grant and other public moneys
3 for child-care facilities wishing to upgrade their standard of care and which meet quality
4 standards.

5 2. The department of health and senior services shall make federal funds available to
6 licensed or inspected child-care centers pursuant to federal law as set forth in the Child and Adult
7 Food Program, 42 U.S.C. 1766.

8 **3. Notwithstanding any other provision of law, in the administration of the**
9 **program for at-risk children through the Child and Adult Food Program, 42 U.S.C. 1766,**
10 **this state shall not have requirements that are stricter than federal regulations for**
11 **participants in such program. Child care facilities shall not be required to be licensed child**
12 **care providers to participate in such federal program so long as minimum health and**
13 **safety standards are met and documented.**

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) to (15) of subsection 1 of section 210.211, shall be
4 inspected annually for fire and safety by the state fire marshal, the marshal's designee or officials
5 of a local fire district and for health and sanitation by the department of ~~health and senior~~
6 ~~services] elementary and secondary education or the department's designee, including~~
7 **officials of the department of health and senior services**, or officials of the local health
8 department. Evidence of compliance with the inspections required by this section shall be kept
9 on file and available to parents of children enrolling in the child-care facility.

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

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

21 4. The department of [~~health and senior services~~] **elementary and secondary education**
22 shall administer the provisions of sections 210.252 to 210.256, with the cooperation of the state
23 fire marshal, **the department of health and senior services**, local fire departments and local
24 health agencies.

25 5. The department of [~~health and senior services~~] **elementary and secondary education**
26 shall promulgate rules and regulations to implement and administer the provisions of sections
27 210.252 to 210.256. Such rules and regulations shall provide for the protection of children in
28 all child-care facilities whether or not such facility is subject to the licensing provisions of
29 sections 210.201 to 210.245.

30 6. **The department of health and senior services, after consultation with the**
31 **department of elementary and secondary education, may promulgate rules and regulations**
32 **to implement and administer the provisions of this section related to sanitation**
33 **requirements. Such rules and regulations shall provide for the protection of children in**
34 **all child-care facilities whether or not such facility is subject to the licensing provisions of**
35 **section 210.201 to 210.245.**

36 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
37 under the authority delegated in sections 210.252 to 210.256 shall become effective only if it
38 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
39 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
40 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
41 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
42 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
43 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
44 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
45 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

Section B. Because of the need to preserve safe and adequate access to educational
2 opportunities for Missouri children, 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 A of this act shall be in full
5 force and effect upon its passage and approval.

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