

HOUSE AMENDMENT NO. _____
TO
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Offered By

AMEND House Amendment No. _____ to House Committee Substitute for Senate Substitute for Senate Bill No. 198, Page 1, Line 1, by inserting after the number "198," the following:

"Page 21, Section 210.203, Line 2, by deleting said line and inserting in lieu thereof the following:

"record of substantiated, signed parental complaints against child care facilities or summer camps licensed or registered"; and

Further amend said bill, page, and section, Line 5, by inserting after all of said section and line the following:

"210.211. 1. It shall be unlawful for any person to establish, maintain, or operate a child-care facility for children, or for any person or organization to establish, maintain, or operate a summer camp, 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 as a child care facility, or a written registration as a summer camp, granted by the department of elementary and secondary education; 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 that is conducted in good faith primarily to provide education;

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

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

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

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

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

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

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

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

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

(12) Any 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;

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

(14) Any religious organization elementary or secondary school;

(15) Any private organization elementary or secondary school system providing child care to children younger than school age. If a facility or program is exempt from licensure based upon this exception, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status;

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

(17) Any child care facility or summer camp maintained or operated under the exclusive control of a religious organization. If 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 or summer camp, the facility or summer camp is not under the exclusive control of the religious organization.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. Section 1766. Grants to parents

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

3 3. Every child care facility or summer camp shall disclose the licensure or registration status
4 of the facility or camp to the parents or guardians of children for which the facility provides care or
5 for which the camp provides recreation in the summer. No child care facility exempt from licensure
6 shall represent to any parent or guardian of children for which the facility provides care that the
7 facility is licensed when such facility is in fact not licensed. A parent or guardian utilizing an
8 unlicensed child care facility shall sign a written notice indicating he or she is aware of the
9 unlicensed status of the facility. The facility shall keep a copy of this signed written notice on file.
10 All child care facilities shall provide the parent or guardian enrolling a child in the facility with a
11 written explanation of the disciplinary philosophy and policies of the child care facility.

12 4. Up to two children who are five years of age or older and who are related within the third
13 degree of consanguinity or affinity to, adopted by, or under court appointed guardianship or legal
14 custody of a child care provider who is responsible for the daily operation of a licensed family child
15 care home that is organized as a corporation, association, firm, partnership, limited liability
16 company, sole proprietorship, or any other type of business entity in this state shall not be included
17 in the number of children counted toward the maximum number of children for which the family
18 child care home is licensed under section 210.221. If more than one member of the corporation,
19 association, firm, partnership, limited liability company, or other business entity is responsible for
20 the daily operation of the licensed family child care home, then the related children of only one such
21 member shall be excluded. A family child care home caring for children not counted in the
22 maximum number of children, as permitted under this subsection, shall disclose this to parents or
23 guardians on the written notice required under subsection 3 of this section. If a family child care
24 home begins caring for children not counted in the maximum number of children after a parent or
25 guardian has signed the written notice required under subsection 3 of this section, the family child
26 care home shall provide a separate notice to the parent or guardian that the family child care home is
27 caring for children not counted in the maximum number of children for which the family child care
28 home is licensed and shall keep a copy of the signed notice on file.

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

32 6. Nothing in this section shall prevent the department from promulgating rules or
33 regulations relating to supervision requirements and capacity limitations for summer camps.

34 210.212. 1. As used in this section, the following terms mean:

35 (1) "Camp counselor", an employee of a summer camp who interacts with and is responsible
36 for the supervision and safety of children at a summer camp and engages in activities including, but
37 not limited to, planning and leading group events, maintaining a schedule of activities for children at
38 the camp, and responding to safety or behavioral incidents;

1 (2) "Medical emergency", an injury or the sudden and, at the time, unexpected onset of a
2 health condition that manifests itself by symptoms of sufficient severity that would lead a prudent
3 layperson, possessing an average knowledge of health and medicine, to believe that the absence of
4 immediate medical care could result in:

5 (a) Placing the person's health in significant jeopardy;

6 (b) Serious impairment to a bodily function;

7 (c) Serious dysfunction of any bodily organ or part; or

8 (d) Inadequately controlled pain;

9 (3) "Specialized recreational activity", an activity that may expose a child to a risk of
10 serious injury because of the inherent danger of the activity and includes, but is not limited to,
11 diving, boating, canoeing, and aquatic activities involving a pool or other body of water.

12 2. Any person or organization operating a summer camp in this state shall ensure that
13 employees of the summer camp who will be involved in the operation of aquatic equipment are
14 certified in operating equipment used in a specialized recreational activity offered by the summer
15 camp. The department of social services shall oversee the safety of, and implement the safety
16 policies for, all aquatic activities at summer camps.

17 3. (1) Any person or organization operating a summer camp in this state shall establish and
18 retain onsite a written site-specific emergency plan, which shall be approved by the director of the
19 summer camp and a copy of such plan shall be sent to the department of elementary and secondary
20 education, outlining procedures that address the following emergency situations:

21 (a) Natural disasters;

22 (b) A lost child or children;

23 (c) An injured child or children;

24 (d) Fires;

25 (e) Transportation emergencies;

26 (f) Medical emergencies;

27 (g) Unauthorized persons on or near the premises of the summer camp;

28 (h) Active shooter;

29 (i) Aquatic emergencies, as appropriate for the site; and

30 (j) Other emergency situations, as appropriate for the site.

31 (2) Summer camp employees, including the director and camp counselors, shall be trained
32 in implementing the emergency plan procedures provided for under subdivision (1) of this
33 subsection.

34 4. The department of elementary and secondary education shall require at least half the staff
35 employed by a summer camp to be trained in cardiopulmonary resuscitation and renew such training
36 every two years.

37 5. The department of elementary and secondary education shall require, at the time of hiring
38 and every two years thereafter, all summer camp employees to submit fingerprints to the Missouri

1 state highway patrol for the purpose of conducting a state and federal fingerprint based criminal
2 background check.

3 210.221. 1. The department of elementary and secondary education shall have the
4 following powers and duties:

5 (1) After inspection, to grant licenses to persons to operate child-care facilities or to grant
6 registration to persons or organizations to operate summer camps if satisfied as to the good character
7 and intent of the applicant and that such applicant is qualified and equipped to render care or service
8 conducive to the welfare of children or to render recreational activities to children in the summer.
9 Each license shall specify the kind of child-care services the licensee is authorized to perform, the
10 number of children that can be received or maintained, and their ages;

11 (2) To inspect the conditions of the homes and other places in which the applicant operates a
12 child-care facility or to inspect the conditions of the property in which the person or organization
13 operates a summer camp, inspect their books and records, premises and children being served,
14 examine their officers and agents, deny, suspend, place on probation or revoke the license of such
15 persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations
16 made by the department of elementary and secondary education. The commissioner also may
17 revoke or suspend a license when the licensee surrenders the license;

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

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

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

28 2. Any child-care facility or summer camp may request a variance from a rule or regulation
29 promulgated pursuant to this section. The request for a variance shall be made in writing to the
30 department of elementary and secondary education and shall include the reasons the facility or camp
31 is requesting the variance. The department shall approve any variance request that does not
32 endanger the health or safety of the children served by the facility or camp. The burden of proof at
33 any appeal of a disapproval of a variance application shall be with the department of elementary and
34 secondary education. Local inspectors may grant a variance, subject to approval by the department
35 of elementary and secondary education.

36 3. The department shall deny, suspend, place on probation or revoke a license or registration
37 if it receives official written notice that the local governing body has found that license or
38 registration is prohibited by any local law related to the health and safety of children. The
39 department may deny an application for a license or registration if the department determines that a

home or other place in which an applicant would operate a child-care facility or summer camp is located within one thousand feet of any location where a person required to register under sections 589.400 to 589.425 either resides, as that term is defined in subsection 3 of section 566.147, or regularly receives treatment or services, excluding any treatment or services delivered in a hospital, as that term is defined in section 197.020, or in facilities owned or operated by a hospital system. The department may, after inspection, find the licensure or registration, denial of licensure or registration, suspension or revocation to be in the best interest of the state.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 210.201 to 210.245 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.

210.231. The department of elementary and secondary education may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the department of elementary and secondary education to be competent, to investigate and inspect licensees or registered summer camps and applicants for a license or registration. Local inspection of child care facilities or summer camps may be accomplished if the standards employed by local personnel are substantially equivalent to state standards and local personnel are available for enforcement of such standards.

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

2. If the department of elementary and secondary education proposes to deny, suspend, place on probation or revoke a license, the department of elementary and secondary education shall serve upon the applicant or licensee written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or licensee shall have thirty days to request in writing a hearing before the administrative hearing commission and that such request shall be made to the department of elementary and secondary education. If no written request for a hearing is

1 received by the department of elementary and secondary education within thirty days of the delivery
2 or mailing by certified mail of the notice to the applicant or licensee, the proposed discipline shall
3 take effect on the thirty-first day after such delivery or mailing of the notice to the applicant or
4 licensee. If the applicant or licensee makes a written request for a hearing, the department of
5 elementary and secondary education shall file a complaint with the administrative hearing
6 commission within ninety days of receipt of the request for a hearing.

7 3. The department of elementary and secondary education may issue letters of censure or
8 warning without formal notice or hearing. Additionally, the department of elementary and
9 secondary education may place a licensee on probation pursuant to chapter 621.

10 4. The department of elementary and secondary education may suspend any license
11 simultaneously with the notice of the proposed action to be taken in subsection 2 of this section, if
12 the department of elementary and secondary education finds that there is a threat of imminent bodily
13 harm to the children in care. The notice of suspension shall include the basis of the suspension and
14 the appeal rights of the licensee pursuant to this section. The licensee may appeal the decision to
15 suspend the license to the department of elementary and secondary education. The appeal shall be
16 filed within ten days from the delivery or mailing by certified mail of the notice of appeal. A
17 hearing shall be conducted by the department of elementary and secondary education within ten
18 days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of
19 the proceedings, including review thereof, unless sooner withdrawn by the department of elementary
20 and secondary education, dissolved by a court of competent jurisdiction or stayed by the
21 administrative hearing commission. Any person aggrieved by a final decision of the department
22 made pursuant to this section shall be entitled to judicial review in accordance with chapter 536.

23 5. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu
24 thereof, the prosecuting attorney of the county where the child-care facility or summer camp is
25 located may file suit for a preliminary and permanent order overseeing or preventing the operation
26 of a child-care facility or summer camp for violating any provision of sections 210.201 to 210.245.
27 The order shall remain in force until such a time as the court determines that the child-care facility
28 or summer camp is in substantial compliance. If the prosecuting attorney refuses to act or fails to
29 act after receipt of notice from the department of elementary and secondary education, the
30 department of elementary and secondary education may request that the attorney general seek an
31 injunction of the operation of such child-care facility or summer camp.

32 6. In cases of imminent bodily harm to children in the care of a child-care facility or
33 summer camp, including an unlicensed, nonexempt facility, the department may file suit in the
34 circuit court of the county in which the child-care facility or summer camp is located for injunctive
35 relief, which may include removing the children from the facility or camp, overseeing the operation
36 of the facility or camp, or closing the facility or camp. Failure by the department to file suit under
37 the provisions of this subsection shall not be construed as creating any liability in tort or incurring
38 other obligations or duties except as otherwise specified.

7. Any person who operates an unlicensed, nonexempt child-care facility or an unregistered summer camp in violation of the provisions of sections 210.201 to 210.245 shall be liable for a civil penalty of not less than seven hundred fifty dollars and not more than two thousand dollars. The department shall serve upon such person written notice of the department's findings as to the child-care facility's unlicensed, nonexempt status, along with educational materials about Missouri's child-care facility laws and regulations, how a facility may become exempt or licensed, and penalties for operating an unlicensed, nonexempt child-care facility. The notice shall contain a statement that the person shall have thirty days to become compliant with sections 210.201 to 210.245, including attaining exempt status or becoming licensed. The person's failure to do so shall result in a civil action in the circuit court of Cole County or criminal charges under this section. If, following the receipt of the written notice, the person operating the child-care facility fails to become compliant with sections 210.201 to 210.245, the department may bring a civil action in the circuit court of Cole County against such person. The department may, but shall not be required to, request that the attorney general bring the action in place of the department. No civil action provided by this subsection shall be brought if the criminal penalties under subsection 1 of this section have been previously ordered against the person for the same violation. Failure by the department to file suit under the provisions of this subsection shall not be construed as creating any liability in tort or incurring other obligations or duties except as otherwise specified.

8. There shall be established the "Family Child Care Provider Fund" in the state treasury, which shall consist of such funds as appropriated by the general assembly. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in the fund shall be used solely by the department for the dissemination of information concerning compliance with child-care facility or summer camp laws and regulations, including licensed, registered, or exempt status; educational initiatives relating to, inter alia, child care, safe sleep practices, and child nutrition; and the provision of financial assistance on the basis of need for family child-care homes to become licensed, as determined by the department and subject to available moneys in the fund. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

210.252. 1. All buildings and premises used by a child-care facility to care for more than six children except those exempted from the licensing provisions of the department of elementary and secondary education pursuant to subdivisions (1) to (15) of subsection 1 of section 210.211~~;~~ or all buildings and premises used by a summer camp shall be inspected annually for fire and safety by the state fire marshal, the marshal's designee or officials of a local fire district and for health and sanitation by the department of elementary and secondary education or the department's designee, including officials of the department of health and senior services, or officials of the local health

1 department. Evidence of compliance with the inspections required by this section shall be kept on
2 file and available to parents of children enrolling in the child-care facility.

3 2. Local inspection of child-care facilities or summer camps may be accomplished if the
4 standards employed by local personnel are substantially equivalent to state standards and local
5 personnel are available for enforcement of such standards.

6 3. Any child-care facility or summer camp may request a variance from a rule or regulation
7 promulgated pursuant to this section. The request for a variance shall be made in writing to the
8 department of elementary and secondary education and shall include the reasons the facility or camp
9 is requesting the variance. The department shall approve any variance request that does not
10 endanger the health or safety of the children served by the facility or camp. The burden of proof at
11 any appeal of a disapproval of a variance application shall be with the department of elementary and
12 secondary education. Local inspectors may grant a variance, subject to approval by the department
13 of elementary and secondary education.

14 4. The department of elementary and secondary education shall administer the provisions of
15 sections 210.252 to 210.256, with the cooperation of the state fire marshal, the department of health
16 and senior services, local fire departments and local health agencies.

17 5. The department of elementary and secondary education shall promulgate rules and
18 regulations to implement and administer the provisions of sections 210.252 to 210.256. Such rules
19 and regulations shall provide for the protection of children in all child-care facilities or summer
20 camps whether or not such facility or camp is subject to the licensing or registering provisions of
21 sections 210.201 to 210.245.

22 6. The department of health and senior services, after consultation with the department of
23 elementary and secondary education, may promulgate rules and regulations to implement and
24 administer the provisions of this section related to sanitation requirements. Such rules and
25 regulations shall provide for the protection of children in all child-care facilities or summer camps
26 whether or not such facility or camp is subject to the licensing or registering provisions of sections
27 210.201 to 210.245.

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

38 210.256. 1. Any person who violates any provision of sections 210.252 to 210.255, or who
39 for such person or for any other person makes a materially false statement in the notice of parental

1 responsibility required by sections 210.254 and 210.255, shall be guilty of an infraction for the first
2 offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class
3 A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association,
4 institution, or society, the officers thereof who participate in such violation shall be subject to the
5 same penalties.

6 2. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu
7 thereof, the prosecuting attorney of the county where the child-care facility or summer camp is
8 located may file suit for a preliminary and permanent order overseeing or preventing the operation
9 of a child-care facility or summer camp for violating any provision of section 210.252. The
10 injunction shall remain in force until such time as the court determines that the child-care facility or
11 summer camp is in substantial compliance.

12 3. In cases of imminent bodily harm to children in the care of a child-care facility or
13 summer camp, the department of elementary and secondary education may apply to the circuit court
14 of the county in which the child-care facility or summer camp is located for injunctive relief, which
15 may include removing the children from the facility or camp, overseeing the operation of the facility
16 or camp, or closing the facility or camp."; and

17
18 Further amend said bill,"; and

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20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.

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23 THIS AMENDMENT AMENDS 0788H04.13H.