

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 913 & 428, Page 1, Section A, Line 2, by
2 inserting after said section and line the following:

3
4 "210.203. The department of elementary and secondary education shall maintain a record of
5 substantiated, signed parental complaints against child care facilities or summer camps licensed
6 pursuant to this chapter, and shall make such complaints and findings available to the public upon
7 request."; and

8
9 Further amend said bill and page, Section 210.211, Line 2, by inserting after the word "facility" the
10 phrase ", or for any person or organization to establish, maintain, or operate a summer camp,"; and

11
12 Further amend said bill and section, Page 2, Line 18, by deleting the words "summer or" and
13 inserting in lieu thereof the words "[summer or]"; and

14
15 Further amend said bill and section, Page 3, Lines 60-61, by deleting said lines and inserting in lieu
16 thereof the following:

17
18 "3. Every child care facility or summer camp shall disclose the licensure status of the
19 facility or camp to the parents or guardians of children for which the facility provides care or for
20 which the camp provides recreation in the summer. No child care facility"; and

21
22 Further amend said bill and section, Page 4, Line 95, by inserting after said line the following:

23
24 "7. Nothing in this section shall prevent the department from promulgating rules or
25 regulations relating to supervision requirements and capacity limitations for summer camps.

26 210.212. 1. As used in this section, the following terms mean:

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

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

- (a) Placing the person's health in significant jeopardy;
- (b) Serious impairment to a bodily function;
- (c) Serious dysfunction of any bodily organ or part; or
- (d) Inadequately controlled pain;

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

2. Any person or organization operating a summer camp in this state shall ensure that employees of the summer camp who will be involved in the operation of aquatic equipment are certified in operating equipment used in a specialized recreational activity offered by the summer camp.

3. (1) Any person or organization operating a summer camp in this state shall establish and retain onsite a written site-specific emergency plan, which shall be approved by the director of the summer camp, outlining procedures that address the following emergency situations:

- (a) Natural disasters;
- (b) A lost child or children;
- (c) Fires;
- (d) Transportation emergencies;
- (e) Medical emergencies;
- (f) Unauthorized persons on or near the premises of the summer camp;
- (g) Aquatic emergencies, as appropriate for the site; and
- (h) Other emergency situations, as appropriate for the site.

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

4. All camp counselors and any director employed by a summer camp shall be trained in cardiopulmonary resuscitation.

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

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

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

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

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

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

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

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

36 4. 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 210.201 to 210.245 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 and

1 repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed
2 or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This
3 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
4 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
6 adopted after August 28, 1999, shall be invalid and void.

7 210.231. The department of elementary and secondary education may designate to act for it,
8 with full authority of law, any instrumentality of any political subdivision of the state of Missouri
9 deemed by the department of elementary and secondary education to be competent, to investigate
10 and inspect licensees and applicants for a license. Local inspection of child care facilities or
11 summer camps may be accomplished if the standards employed by local personnel are substantially
12 equivalent to state standards and local personnel are available for enforcement of such standards.

13 210.245. 1. Any person who violates any provision of sections 210.201 to 210.245, or who
14 for such person or for any other person makes materially false statements in order to obtain a license
15 or the renewal thereof pursuant to sections 210.201 to 210.245, shall be guilty of a class C
16 misdemeanor for the first offense and shall be assessed a fine not to exceed seven hundred fifty
17 dollars and shall be guilty of a class A misdemeanor and shall be assessed a fine of up to two
18 thousand dollars per day, not to exceed a total of ten thousand dollars for subsequent offenses. In
19 case such guilty person is a corporation, association, institution or society, the officers thereof who
20 participate in such misdemeanor shall be subject to the penalties provided by law.

21 2. If the department of elementary and secondary education proposes to deny, suspend,
22 place on probation or revoke a license, the department of elementary and secondary education shall
23 serve upon the applicant or licensee written notice of the proposed action to be taken. The notice
24 shall contain a statement of the type of action proposed, the basis for it, the date the action will
25 become effective, and a statement that the applicant or licensee shall have thirty days to request in
26 writing a hearing before the administrative hearing commission and that such request shall be made
27 to the department of elementary and secondary education. If no written request for a hearing is
28 received by the department of elementary and secondary education within thirty days of the delivery
29 or mailing by certified mail of the notice to the applicant or licensee, the proposed discipline shall
30 take effect on the thirty-first day after such delivery or mailing of the notice to the applicant or
31 licensee. If the applicant or licensee makes a written request for a hearing, the department of
32 elementary and secondary education shall file a complaint with the administrative hearing
33 commission within ninety days of receipt of the request for a hearing.

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

37 4. The department of elementary and secondary education may suspend any license
38 simultaneously with the notice of the proposed action to be taken in subsection 2 of this section, if
39 the department of elementary and secondary education finds that there is a threat of imminent bodily

1 harm to the children in care. The notice of suspension shall include the basis of the suspension and
2 the appeal rights of the licensee pursuant to this section. The licensee may appeal the decision to
3 suspend the license to the department of elementary and secondary education. The appeal shall be
4 filed within ten days from the delivery or mailing by certified mail of the notice of appeal. A
5 hearing shall be conducted by the department of elementary and secondary education within ten
6 days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of
7 the proceedings, including review thereof, unless sooner withdrawn by the department of elementary
8 and secondary education, dissolved by a court of competent jurisdiction or stayed by the
9 administrative hearing commission. Any person aggrieved by a final decision of the department
10 made pursuant to this section shall be entitled to judicial review in accordance with chapter 536.

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

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

27 7. Any person who operates an unlicensed, nonexempt child-care facility or summer camp
28 in violation of the provisions of sections 210.201 to 210.245 shall be liable for a civil penalty of not
29 less than seven hundred fifty dollars and not more than two thousand dollars. The department shall
30 serve upon such person written notice of the department's findings as to the child-care facility's
31 unlicensed, nonexempt status, along with educational materials about Missouri's child-care facility
32 laws and regulations, how a facility may become exempt or licensed, and penalties for operating an
33 unlicensed, nonexempt child-care facility. The notice shall contain a statement that the person shall
34 have thirty days to become compliant with sections 210.201 to 210.245, including attaining exempt
35 status or becoming licensed. The person's failure to do so shall result in a civil action in the circuit
36 court of Cole County or criminal charges under this section. If, following the receipt of the written
37 notice, the person operating the child-care facility fails to become compliant with sections 210.201
38 to 210.245, the department may bring a civil action in the circuit court of Cole County against such
39 person. The department may, but shall not be required to, request that the attorney general bring the

1 action in place of the department. No civil action provided by this subsection shall be brought if the
2 criminal penalties under subsection 1 of this section have been previously ordered against the person
3 for the same violation. Failure by the department to file suit under the provisions of this subsection
4 shall not be construed as creating any liability in tort or incurring other obligations or duties except
5 as otherwise specified.

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

19 210.252. 1. All buildings and premises used by a child-care facility to care for more than
20 six children except those exempted from the licensing provisions of the department of elementary
21 and secondary education pursuant to subdivisions (1) to (15) of subsection 1 of section 210.211[,] or
22 all buildings and premises used by a summer camp shall be inspected annually for fire and safety by
23 the state fire marshal, the marshal's designee or officials of a local fire district and for health and
24 sanitation by the department of elementary and secondary education or the department's designee,
25 including officials of the department of health and senior services, or officials of the local health
26 department. Evidence of compliance with the inspections required by this section shall be kept on
27 file and available to parents of children enrolling in the child-care facility.

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

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

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

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

9 6. The department of health and senior services, after consultation with the department of
10 elementary and secondary education, may promulgate rules and regulations to implement and
11 administer the provisions of this section related to sanitation requirements. Such rules and
12 regulations shall provide for the protection of children in all child-care facilities or summer camps
13 whether or not such facility or camp is subject to the licensing provisions of sections 210.201 to
14 210.245.

15 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
16 under the authority delegated in sections 210.252 to 210.256 shall become effective only if it
17 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
18 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and
19 repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed
20 or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This
21 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
22 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are
23 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
24 adopted after August 28, 1999, shall be invalid and void.

25 210.256. 1. Any person who violates any provision of sections 210.252 to 210.255, or who
26 for such person or for any other person makes a materially false statement in the notice of parental
27 responsibility required by sections 210.254 and 210.255, shall be guilty of an infraction for the first
28 offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class
29 A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association,
30 institution, or society, the officers thereof who participate in such violation shall be subject to the
31 same penalties.

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

38 3. In cases of imminent bodily harm to children in the care of a child-care facility or
39 summer camp, the department of elementary and secondary education may apply to the circuit court

1 of the county in which the child-care facility or summer camp is located for injunctive relief, which
2 may include removing the children from the facility or camp, overseeing the operation of the facility
3 or camp, or closing the facility or camp."; and
4
5 Further amend said bill by amending the title, enacting clause, and intersectional references
6 accordingly.