

FIRST REGULAR SESSION

# HOUSE BILL NO. 428

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PERKINS.

0069H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 210.211, RSMo, and to enact in lieu thereof one new section relating to licensed child care facilities.

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

Section A. Section 210.211, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.211, to read as follows:

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 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;

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

19 (5) Any hospital, sanitarium, or home that is conducted in good faith primarily to  
20 provide medical treatment or nursing or convalescent care for children;

21 (6) Any residential facility or day program licensed by the department of mental  
22 health under sections 630.705 to 630.760 that provides care, treatment, and habilitation  
23 exclusively to children who have a primary diagnosis of mental disorder, mental illness,  
24 intellectual disability, or developmental disability, as those terms are defined in section  
25 630.005;

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

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

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

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

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

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

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

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

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

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

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

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

47 (17) Any child care facility maintained or operated under the exclusive control of a  
48 religious organization. If a nonreligious organization having as its principal purpose the  
49 provision of child care services enters into an arrangement with a religious organization for  
50 the maintenance or operation of a child care facility, the facility is not under the exclusive  
51 control of the religious organization.

52 2. Notwithstanding the provisions of subsection 1 of this section, no child-care  
53 facility shall be exempt from licensure if such facility receives any state or federal funds for

54 providing care for children, except for federal funds for those programs which meet the  
55 requirements for participation in the Child and Adult Care Food Program pursuant to 42  
56 U.S.C. Section 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257  
57 shall not be construed to be funds received by a person or facility listed in subdivisions (1)  
58 and (17) of subsection 1 of this section.

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

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

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