

FIRST REGULAR SESSION

HOUSE BILL NO. 1278

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VEIT.

2668H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 210.1271, RSMo, and to enact in lieu thereof one new section relating to residential care facilities.

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

Section A. Section 210.1271, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.1271, to read as follows:

210.1271. 1. Notwithstanding any other remedy, the department, the prosecuting [~~or~~
2 ~~circuit~~] attorney of the county **or the circuit attorney of any city not within a county**, where
3 the facility is located, or the attorney general may seek **temporary or permanent** injunctive
4 relief to [~~cease the operation of the residential care facility and provide for the appropriate~~
5 ~~removal of the children from the residential care facility and placement in the custody of the~~
6 ~~parent or legal guardian or any other appropriate individual or entity in the discretion of the~~
7 ~~court, refer the matter to the juvenile officer of the appropriate county for appropriate~~
8 ~~proceedings under chapter 211, or other orders as the court determines appropriate to ensure~~
9 ~~the health and safety of the children] **protect the health, safety, and welfare of children**
10 **served by the residential care facility as provided in this section.** Such action shall be
11 brought in the circuit court of the county **or any city not within a county** in which such
12 residential care facility is located and shall be initiated only for the following [~~violations~~]
13 **reasons:**~~

14 (1) Providing supervision, care, lodging, or maintenance for any children in such
15 facility without filing notification in accordance with sections 210.1250 to 210.1286;

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.

16 (2) Failing to satisfactorily comply with all fire, safety, health, and sanitation
17 inspections as may be required by state law or local ordinance and required under section
18 210.252;

19 (3) Failing to comply with background checks as required by section 210.493; [ø]

20 (4) **Employing persons or utilizing the services of persons who are required to**
21 **complete a background check under section 210.493 and who have pending criminal**
22 **charges by indictment or information with any of the offenses that would render the**
23 **persons ineligible for employment or presence at the residential care facility as provided**
24 **under section 210.493; or**

25 [~~An immediate~~] (5) **There exists a significant health or safety concern for the**
26 **children at the residential care facility.**

27 **2. The temporary or permanent injunctive relief may include one or more of the**
28 **following:**

29 (1) **Ordering the residential care facility to temporarily or permanently cease**
30 **operations;**

31 (2) **Ordering the removal of some or all of the children from the residential care**
32 **facility on a temporary or permanent basis;**

33 (3) **Enjoining, temporarily or permanently, the residential care facility from**
34 **employing persons or utilizing the services of specific personnel who the division has**
35 **found ineligible for employment or presence at the residential care facility under section**
36 **210.493, or who have pending criminal charges by indictment or information with one**
37 **of the offenses listed under subdivision (5) of subsection 11 of section 210.493; or**

38 (4) **Ordering that the residential care facility successfully complete the**
39 **notification in accordance with sections 210.1250 to 210.1286 by a date certain.**

40 **3. If the court determines that temporary or permanent closure of the residential**
41 **care facility is the appropriate remedy, the court shall enter orders for the removal of**
42 **the children from the facility and prompt return of the children to the parents or**
43 **guardians. If a parent or guardian is unable, fails, or refuses to pick up his or her child**
44 **or ward within the time specified by the court's order, the court shall refer the matter to**
45 **the juvenile officer and the juvenile officer shall initiate proceedings under chapter 211.**

46 **4. The court shall employ the least invasive remedy necessary to ensure**
47 **compliance with the law and the protection of the health, safety, and welfare of the**
48 **children.**

49 **5. If the department or the attorney general requests a preliminary injunction,**
50 **the court shall hold a full evidentiary hearing within ten business days of the date that**
51 **the motion was filed.**

52 **6.** In cases of ~~[an]~~ **a temporary restraining** order granted ex parte under subsection 1
53 of this section requiring a residential care facility to cease operations, a hearing shall be held
54 within three business days to determine whether the order shall remain in effect, with
55 attempted notice to the facility ~~[and the parents or guardians and due process for all parties]~~.

56 **7.** In determining whether ~~[the order]~~ **any temporary restraining order or**
57 **temporary injunction** shall remain in effect, the court shall consider whether there exists
58 reasonable cause to believe that the grounds for the original ~~[ex parte]~~ **order or injunction**
59 continue to persist, or if additional grounds exist to support ~~[the ex parte]~~ **such order or**
60 **injunction** as necessary to protect the health and safety of the children at the facility.

61 ~~[3-]~~ **8.** The department may notify the attorney general of any case in which the
62 department makes a referral to a juvenile officer for removal of a child from a residential care
63 facility. The notification shall include any ~~[violations]~~ **reasons** under subsection 1 of this
64 section.

65 ~~[4-]~~ **9.** If **the parent or guardian is unable, fails, or refuses to pick up his or her**
66 **child or ward within the time specified by the court's order and** the court refers the matter
67 to a juvenile officer, the court may also enter an order placing a child in the emergency,
68 temporary protective custody of the children's division within the department, as provided
69 under this section, for a period of time not to exceed five days. Such placement shall occur
70 only if the children's division certifies to the court **prior to the entry of the order** that the
71 children's division has a suitable, temporary placement for the child and the court makes
72 specific, written findings that:

- 73 (1) It is contrary to the welfare of the child to remain in the residential care facility;
74 (2) That the parent or legal guardian is unable or unwilling to take physical custody of
75 the child within that time; and
76 (3) There is no other temporary, suitable placement for the child.

77

78 If the parent or legal guardian of the child does not make suitable arrangements for the
79 custody and disposition of the child within five days of placement within the children's
80 division, the child shall fall under the original and exclusive jurisdiction of the juvenile court
81 under subdivision (1) or (2) of subsection 1 of section 211.031 and the juvenile officer shall
82 file a petition with the juvenile court for further proceedings. Under no circumstances shall
83 the children's division be required to retain care and custody of the child for more than five
84 days without an order from the juvenile court.

85 ~~[5-]~~ **10.** The provisions of sections 452.700 to 452.930 shall apply and the court shall
86 follow the procedures specified under section 452.755 for children who are placed at a
87 residential care facility and who are from another state or country or are under the jurisdiction
88 or authority of a court from another state.

89 **11. In conducting an investigation of reports of child abuse or neglect or reports**
90 **of suspected violations of section 210.493 and sections 210.1250 to 210.1286, the**
91 **residential care facility shall provide the prosecuting attorney of the county or circuit**
92 **attorney of any city not within a county, where the residential care facility is located, or**
93 **the attorney general with any information necessary to complete the investigation. The**
94 **prosecuting or circuit attorney or the attorney general shall have the authority to issue**
95 **subpoenas duces tecum for the production of documents, records, video and audio**
96 **recordings, and other evidence necessary to complete the investigation.**

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