

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 850, 53 & 482
103RD GENERAL ASSEMBLY

2039H.03P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 210.221, RSMo, and to enact in lieu thereof one new section relating to licensing of child care facilities.

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

Section A. Section 210.221, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.221, to read as follows:

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 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. Each license shall specify **the effective date and whether the license is temporary**, 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 ;

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

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the department shall in any manner restrict or

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.

18 interfere with any religious instruction, philosophies or ministries provided by the facility and
19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed;

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

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

26 **2. (1) In addition to the powers and duties under subsection 1 of this section, the**
27 **department of elementary and secondary education has the power and duty to grant a**
28 **temporary child care license. The temporary child care license shall be granted to a**
29 **child care provider who:**

30 (a) Is not on probation or has not been on probation within the last twelve
31 months;

32 (b) Is not in the process of having a license revoked or has not had a license
33 revoked within the last twelve months; or

34 (c) Does not have a current letter of censure,

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36 upon submittal of a complete license application to the department of elementary and
37 secondary education by the child care provider, to expand an existing site or to add a
38 new location.

39 (2) The child care provider shall complete all of the following in order to obtain a
40 temporary child care license to expand an existing site or add a new location:

41 (a) State and local fire inspections as provided under section 210.252;

42 (b) State and local sanitation inspections as provided under section 210.252;

43 (c) City inspections;

44 (d) Staff background checks and health screenings; and

45 (e) Required staff training and any ongoing required training.

46 (3) Prior to obtaining a temporary child care license under this subsection for
47 another facility, the child care provider shall have operated a child care facility for at
48 least thirteen months. The new facility shall be subject to an inspection, without
49 notification of the inspection, by the office of childhood within sixty days of the opening
50 of the new facility.

51 (4) Temporary child care licenses shall be valid for a duration of no longer than
52 twelve months from the date of issuance or until the department makes a final
53 determination on full licensure.

54 **(5) If the child care facility is an existing child care facility but there is a change**
55 **in ownership of the facility, such facility shall be subject to an inspection, without**
56 **notification of the inspection, by the office of childhood within sixty days of the change**
57 **in ownership.**

58 **3.** Any child-care facility may request a variance from a rule or regulation
59 promulgated pursuant to this section. The request for a variance shall be made in writing to
60 the department of elementary and secondary education and shall include the reasons the
61 facility is requesting the variance. The department shall approve any variance request that
62 does not endanger the health or safety of the children served by the facility. The burden of
63 proof at any appeal of a disapproval of a variance application shall be with the department of
64 elementary and secondary education. Local inspectors may grant a variance, subject to
65 approval by the department of elementary and secondary education.

66 ~~[3-]~~ **4.** The department shall deny, suspend, place on probation or revoke a license if it
67 receives official written notice that the local governing body has found that license is
68 prohibited by any local law related to the health and safety of children. The department may
69 deny an application for a license if the department determines that a home or other place in
70 which an applicant would operate a child-care facility is located within one thousand feet of
71 any location where a person required to register under sections 589.400 to 589.425 either
72 resides, as that term is defined in subsection 3 of section 566.147, or regularly receives
73 treatment or services, excluding any treatment or services delivered in a hospital, as that term
74 is defined in section 197.020, or in facilities owned or operated by a hospital system. The
75 department may, after inspection, find the licensure, denial of licensure, suspension or
76 revocation to be in the best interest of the state.

77 ~~[4-]~~ **5.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
78 created under the authority delegated in sections 210.201 to 210.245 shall become effective
79 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
80 section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force
81 and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
82 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
83 applicable provisions of law. This section and chapter 536 are nonseverable and if any of the
84 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
85 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
86 the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
87 shall be invalid and void.