

FIRST REGULAR SESSION

# HOUSE BILL NO. 1070

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FARNAN.

2419H.02I

JOSEPH ENGLER, Chief Clerk

### AN ACT

To repeal section 210.211, RSMo, and to enact in lieu thereof one new section relating to an in-home licensed day care.

*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Section A. Section 210.211, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.211, to read as follows: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;
- 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 program serving only children enrolled in grade six or above;
- 42           (15) Any religious organization elementary or secondary school;
- 43           (16) Any private organization elementary or secondary school system providing child  
44 care to children younger than school age. If a facility or program is exempt from licensure  
45 based upon this exception, such facility or program shall submit documentation annually to  
46 the department to verify its licensure-exempt status;
- 47           (17) Any nursery school as defined in section 210.201;
- 48           (18) Any child care facility maintained or operated under the exclusive control of a  
49 religious organization. If a nonreligious organization having as its principal purpose the  
50 provision of child care services enters into an arrangement with a religious organization for  
51 the maintenance or operation of a child care facility, the facility is not under the exclusive  
52 control of the religious organization; and
- 53           (19) Any FPE school.

54           2. Notwithstanding the provisions of subsection 1 of this section, no child care facility  
55 shall be exempt from licensure if such facility receives any state or federal funds for  
56 providing care for children, except for federal funds for those programs which meet the  
57 requirements for participation in the Child and Adult Care Food Program pursuant to 42  
58 U.S.C. Section 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257  
59 shall not be construed to be funds received by a person or facility listed in subdivisions (1)  
60 and (18) of subsection 1 of this section.

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

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

88           5. **Notwithstanding any other provision of law or regulation, a person who**  
89 **operates an in-home licensed day care with only one adult caregiver shall be allowed to**  
90 **care for up to two children under one year of age.**

91           **6.** Nothing in this section shall prevent the department from enforcing licensing  
92 regulations promulgated under this chapter, including, but not limited to, supervision  
93 requirements and capacity limitations based on the amount of child care space available.

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