

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 2042, Page 2, Section 43.650, Line 36, by  
2 inserting immediately after said section and line the following:

3  
4 "210.025. 1. An applicant child care provider; persons employed by the applicant child care  
5 provider for compensation, including contract employees or self-employed individuals; individuals  
6 or volunteers whose activities involve the care or supervision of children for the applicant child care  
7 provider or unsupervised access to children who are cared for or supervised by the applicant child  
8 care provider; or individuals residing in the applicant's family child care home who are seventeen  
9 years of age or older shall be required to submit to a criminal background check under section  
10 43.540 prior to an applicant being granted a registration and every five years thereafter and an  
11 annual check of the central registry for child abuse established in section 210.145 in order for the  
12 applicant to qualify for receipt of state or federal funds for providing child-care services [in the  
13 home] either by direct payment or through reimbursement to a child-care beneficiary[, an applicant  
14 and any person over the age of seventeen who is living in the applicant's home shall be required to  
15 submit to a criminal background check pursuant to section 43.540 and a check of the central registry  
16 for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this  
17 subsection or subsection 2 of this section shall be satisfied through registration with the family care  
18 safety registry established in sections 210.900 to 210.936]. Any costs associated with such checks  
19 shall be paid by the applicant.

20 2. Upon receipt of an application for state or federal funds for providing child-care services  
21 in the home, the [family support] children's division shall:

22 (1) Determine if a finding of child abuse or neglect by probable cause prior to August 28,  
23 2004, or by a preponderance of the evidence after August 28, 2004, involving the applicant or any  
24 person over the age of seventeen who is living in the applicant's home has been recorded pursuant to  
25 section 210.145 or 210.221;

26 (2) Determine if the applicant or any person over the age of seventeen who is living in the  
27 applicant's home has been refused licensure or has experienced licensure suspension or revocation  
28 pursuant to section 210.221 or 210.496; and

29 (3) Upon initial application, require the applicant to submit to fingerprinting and request a  
30 criminal background check of the applicant and any person over the age of seventeen who is living  
31 in the applicant's home pursuant to section 43.540 and section 210.487, and inquire of the applicant  
32 whether any children less than seventeen years of age residing in the applicant's home have ever  
33 been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.

34 3. Except as otherwise provided in subsection 4 of this section, upon completion of the  
35 background checks in subsection 2 of this section, an applicant shall be denied state or federal funds  
36 for providing child care if such applicant, any person over the age of seventeen who is living in the

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 applicant's home, and any child less than seventeen years of age who is living in the applicant's  
2 home and who the division has determined has been certified as an adult for the commission of a  
3 crime:

4 (1) Has had a finding of child abuse or neglect by probable cause prior to August 28, 2004,  
5 or by a preponderance of the evidence after August 28, 2004, pursuant to section 210.145 or section  
6 210.152;

7 (2) Has been refused licensure or has experienced licensure suspension or revocation  
8 pursuant to section 210.496;

9 (3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense  
10 against the person as defined by chapter 565, or any other offense against the person involving the  
11 endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as  
12 defined by chapter 566; of any misdemeanor or felony for an offense against the family as defined  
13 in chapter 568, with the exception of the sale of fireworks, as defined in section 320.110, to a child  
14 under the age of eighteen; of any misdemeanor or felony for pornography or related offense as  
15 defined by chapter 573; or of any similar crime in any federal, state, municipal or other court of  
16 similar jurisdiction of which the director has knowledge or any offenses or reports which will  
17 disqualify an applicant from receiving state or federal funds.

18 4. An applicant shall be given an opportunity by the division to offer any extenuating or  
19 mitigating circumstances regarding the findings, refusals or violations against such applicant or any  
20 person over the age of seventeen or less than seventeen who is living in the applicant's home listed  
21 in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered  
22 by the division in its determination of whether to permit such applicant to receive state or federal  
23 funds for providing child care in the home.

24 5. An applicant who has been denied state or federal funds for providing child care in the  
25 home may appeal such denial decision in accordance with the provisions of section 208.080.

26 6. If an applicant is denied state or federal funds for providing child care in the home based  
27 on the background check results for any person over the age of seventeen who is living in the  
28 applicant's home, the applicant shall not apply for such funds until such person is no longer living in  
29 the applicant's home.

30 7. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
31 under the authority delegated in this section shall become effective only if it complies with and is  
32 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking  
33 authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this  
34 section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to  
35 August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter  
36 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
37 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held  
38 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
39 August 28, 1999, shall be invalid and void.

40 210.254. 1. Child-care facilities operated by religious organizations pursuant to the exempt  
41 status recognized in subdivision (5) of section 210.211 shall upon enrollment of any child provide  
42 the parent or guardian enrolling the child two copies of a notice of parental responsibility, one copy  
43 of which shall be retained in the files of the facility after the enrolling parent acknowledges, by  
44 signature, having read and accepted the information contained therein.

45 2. The notice of parental responsibility shall include the following:

46 (1) Notification that the child-care facility is exempt as a religious organization from state  
47 licensing and therefore not inspected or supervised by the department of health and senior services  
48 other than as provided herein and that the facility has been inspected by those designated in section

1 210.252 and is complying with the fire, health and sanitation requirements of sections 210.252 to  
2 210.257;

3 (2) The names, addresses and telephone numbers of agencies and authorities which inspect  
4 the facility for fire, health and safety and the date of the most recent inspection by each;

5 (3) The staff/child ratios for enrolled children under two years of age, for children ages two  
6 to four and for those five years of age and older as required by the department of health and senior  
7 services regulations in licensed facilities, the standard ratio of staff to number of children for each  
8 age level maintained in the exempt facility, and the total number of children to be enrolled by the  
9 facility;

10 (4) Notification that background checks have been conducted [~~on each individual caregiver~~  
11 ~~and all other personnel at the facility. The background check shall be conducted upon employment~~  
12 ~~and every two years thereafter on each individual caregiver and all other personnel at the facility.~~  
13 ~~Such background check shall include a screening for child abuse or neglect through the children's~~  
14 ~~division, and a criminal record review through the Missouri highway patrol pursuant to section~~  
15 ~~43.540. The fee for the criminal record review shall be limited to the actual costs incurred by the~~  
16 ~~Missouri highway patrol in conducting such review not to exceed ten dollars]~~ under section  
17 210.1080;

18 (5) The disciplinary philosophy and policies of the child-care facility; and

19 (6) The educational philosophy and policies of the child-care facility.

20 3. A copy of notice of parental responsibility, signed by the principal operating officer of  
21 the exempt child-care facility and the individual primarily responsible for the religious organization  
22 conducting the child-care facility and copies of the annual fire and safety inspections shall be filed  
23 annually during the month of August with the [~~director of the~~] department of health and senior  
24 services. [~~Exempt child-care facilities which begin operation after August 28, 1993, shall file such~~  
25 ~~notice at least five days prior to starting to operate.]~~

26 210.258. The provisions of this section and section 210.259 apply to a child care facility  
27 maintained or operated under the exclusive control of a religious organization. Nothing in sections  
28 210.252 to 210.257 shall be construed to authorize the department of health and senior services or  
29 any other governmental entity:

30 (1) To interfere with the program, curriculum, ministry, teaching or instruction offered in a  
31 child care facility;

32 (2) To interfere with the [~~selection,]~~ certification[~~;~~] and minimal formal educational degree  
33 requirements[~~;~~ ~~supervision or terms of employment of a facility's personnel~~];

34 (3) [~~To interfere with the selection of individuals sitting on any governing board of a child~~  
35 ~~care facility;~~

36 ~~——(4)]~~ To interfere with the selection of children enrolled in a child care facility; or

37 [(~~5~~) (4)] To prohibit the use of corporal punishment. However, the department of health  
38 and senior services may require the child care facility to provide the parent or guardian enrolling a  
39 child in the facility a written explanation of the disciplinary philosophy and policies of the child  
40 care facility.

41 210.1080. 1. As used in this section, the following terms mean:

42 (1) “Child care staff member”, a child care provider; persons employed by the child care  
43 provider for compensation, including contract employees or self-employed individuals; individuals  
44 or volunteers whose activities involve the care or supervision of children for a child care provider or  
45 unsupervised access to children who are cared for or supervised by a child care provider; or  
46 individuals residing in a family child care home who are seventeen years of age and older;

47 (2) “Criminal background check”:

48 (a) A Federal Bureau of Investigation fingerprint check;

1           (b) A search of the National Crime Information Center's National Sex Offender Registry;  
2 and

3           (c) A search of the following registries, repositories, or databases in Missouri, the state  
4 where the child care staff member resides, and each state where such staff member resided during  
5 the preceding five years:

6           a. The state criminal registry or repository, with the use of fingerprints being required in the  
7 state where the staff member resides and optional in other states;

8           b. The state sex offender registry or repository; and

9           c. The state-based child abuse and neglect registry and database.

10           2. (1) Prior to the employment or presence of a child care staff member in a family child  
11 care home, group child care home, child care center, or license-exempt child care facility, the child  
12 care provider shall request the results of a criminal background check for such child care staff  
13 member from the department of health and senior services.

14           (2) A prospective child care staff member may begin work for a child care provider after the  
15 criminal background check has been requested from the department; however, pending completion  
16 of the criminal background check, the prospective child care staff member shall be supervised at all  
17 times by another child care staff member who received a qualifying result on the criminal  
18 background check within the past five years.

19           (3) A family child care home, group child care home, child care center, or license-exempt  
20 child care facility that has child care staff members at the time this section becomes effective shall  
21 request the results of a criminal background check for all child care staff members by January 31,  
22 2019, unless the requirements for subsection 5 of this section are met by the child care provider and  
23 proof is submitted to the department of health and senior services by January 31, 2019.

24           3. The costs of the criminal background check shall be the responsibility of the child care  
25 staff member but may be paid or reimbursed by the child care provider at the provider's discretion.  
26 The fees charged for the criminal background check shall not exceed the actual cost of processing  
27 and administration.

28           4. Except as otherwise provided in subsection 2 of this section, upon completion of the  
29 criminal background check, any child care staff member or prospective child care staff member  
30 shall be ineligible for employment or presence at a family child care home, a group child care home,  
31 a licensed child care center, or a license-exempt child care facility if such person:

32           (1) Refuses to consent to the criminal background check as required by this section;

33           (2) Knowingly makes a materially false statement in connection with the criminal  
34 background check as required by this section;

35           (3) Is registered, or is required to be registered, on a state sex offender registry or repository  
36 or the National Sex Offender Registry;

37           (4) Has a finding of child abuse or neglect under section 210.145 or 210.152 or any other  
38 finding of child abuse or neglect based on any other state's registry or database;

39           (5) Has been convicted of a felony consisting of:

40           (a) Murder, as described in 18 U.S.C. Section 1111;

41           (b) Child abuse or neglect;

42           (c) A crime against children, including child pornography;

43           (d) Spousal abuse;

44           (e) A crime involving rape or sexual assault;

45           (f) Kidnapping;

46           (g) Arson;

47           (h) Physical assault or battery; or

48           (i) Subject to subsection 5 of this section, a drug-related offense committed during the

1 preceding five years;

2 (6) Has been convicted of a violent misdemeanor committed as an adult against a child,  
3 including the following crimes: child abuse, child endangerment, or sexual assault, or of a  
4 misdemeanor involving child pornography; or

5 (7) Has been convicted of any similar crime in any federal, state, municipal, or other court.

6  
7 Adult household members seventeen years of age and older in a family child care home shall be  
8 ineligible to maintain presence at a family child care home if any one or more of the provisions of  
9 this subsection applies to them.

10 5. A child care provider shall not be required to submit a request for a criminal background  
11 check under this section for a child care staff member if:

12 (1) The staff member received a criminal background check within five years before the  
13 latest date on which such a submission may be made and while employed by or seeking  
14 employment by another child care provider within Missouri;

15 (2) The department of health and senior services provided to the first provider a qualifying  
16 criminal background check result, consistent with this section, for the staff member; and (3) The  
17 staff member is employed by a child care provider within Missouri or has been separated from  
18 employment from a child care provider within Missouri for a period of not more than one hundred  
19 eighty consecutive days.

20 6. (1) The department of health and senior services shall process the request for a criminal  
21 background check for any prospective child care staff member or child care staff member as  
22 expeditiously as possible, but not to exceed forty-five days after the date on which the provider  
23 submitted the request.

24 (2) The department shall provide the results of the criminal background check to the child  
25 care provider in a statement that indicates whether the prospective child care staff member or child  
26 care staff member is eligible or ineligible for employment or presence at the child care facility. The  
27 department shall not reveal to the child care provider any disqualifying crime or other related  
28 information regarding the prospective child care staff member or child care staff member.

29 (3) If such prospective child care staff member or child care staff member is ineligible for  
30 employment or presence at the child care facility, the department shall, when providing the results  
31 of criminal background check, include information related to each disqualifying crime or other  
32 related information, in a report to such prospective child care staff member or child care staff  
33 member, along with information regarding the opportunity to appeal under subsection 7 of this  
34 section.

35 7. The prospective child care staff member or child care staff member may appeal in writing  
36 to the department to challenge the accuracy or completeness of the information contained in his or  
37 her criminal background check, or to offer information mitigating the results and explaining why an  
38 eligibility exception should be granted. The department of health and senior services shall attempt  
39 to verify the accuracy of the information challenged by the individual, including making an effort to  
40 locate any missing disposition information related to the disqualifying crime. The appeal shall be  
41 filed within ten days from the delivery or mailing of the notice of ineligibility. The department shall  
42 make a decision on the appeal in a timely manner.

43 8. The department may adopt emergency rules to implement the requirements of this  
44 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
45 under the authority delegated in this section shall become effective only if it complies with and is  
46 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
47 chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to  
48 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently

- 1 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
- 2 August 28, 2018, shall be invalid and void."; and
- 3
- 4 Further amend said bill by amending the title, enacting clause, and intersectional references
- 5 accordingly.