

SECOND REGULAR SESSION

[CORRECTED]

HOUSE BILL NO. 2203

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHIELDS.

4367H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 210.025, 210.201, 210.211, 210.252, and 210.254, RSMo, and to enact in lieu thereof five new sections relating to child care.

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

Section A. Sections 210.025, 210.201, 210.211, 210.252, and 210.254, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 210.025, 210.201,
3 210.211, 210.252, and 210.254, to read as follows:

210.025. 1. An applicant child care provider; persons employed by the applicant child
2 care provider for compensation, including contract employees or self-employed individuals;
3 individuals or volunteers whose activities involve the care or supervision of children for the
4 applicant child care provider or unsupervised access to children who are cared for or supervised
5 by the applicant child care provider; or individuals residing in the applicant's family child care
6 home who are seventeen years of age or older shall be required to submit to a criminal
7 background check under section 43.540 prior to an applicant being granted a registration and
8 every five years thereafter and an annual check of the central registry for child abuse established
9 in section 210.109 in order for the applicant to qualify for receipt of state or federal funds for
10 providing child-care services either by direct payment or through reimbursement to a child-care
11 beneficiary. Any costs associated with such checks shall be paid by the applicant.

12 2. Upon receipt of an application for state or federal funds for providing child-care
13 services in the home, the children's division shall:

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.

14 (1) Determine if a finding of child abuse or neglect by probable cause prior to August
15 28, 2004, or by a preponderance of the evidence after August 28, 2004, involving the applicant
16 or any person over the age of seventeen who is living in the applicant's home has been recorded
17 pursuant to section 210.145 or 210.221;

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

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

27 3. Except as otherwise provided in subsection 4 of this section, upon completion of the
28 background checks in subsection 2 of this section, an applicant shall be denied state or federal
29 funds for providing child care if such applicant, any person over the age of seventeen who is
30 living in the applicant's home, and any child less than seventeen years of age who is living in the
31 applicant's home and who the division has determined has been certified as an adult for the
32 commission of a crime:

33 (1) Has had a finding of child abuse or neglect by probable cause prior to August 28,
34 2004, or by a preponderance of the evidence after August 28, 2004, pursuant to section 210.145
35 or section 210.152;

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

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

47 4. An applicant shall be given an opportunity by the division to offer any extenuating or
48 mitigating circumstances regarding the findings, refusals or violations against such applicant or
49 any person over the age of seventeen or less than seventeen who is living in the applicant's home

50 listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be
51 considered by the division in its determination of whether to permit such applicant to receive
52 state or federal funds for providing child care in the home.

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

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

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

69 8. (1) The provisions of subsection 1 of this section shall not apply to any child care
70 facility, as defined in section 210.201, maintained or operated under the exclusive control of a
71 religious organization, as described in subdivision ~~[(4)]~~ (17) of subsection 1 of section 210.211,
72 unless such facility is a recipient of federal funds for providing care for children, except for
73 federal funds for those programs that meet the requirements for participation in the Child and
74 Adult Care Food Program under 42 U.S.C. Section 1766.

75 (2) The provisions of subsection 1 of this section, as enacted by the ninety-ninth general
76 assembly, second regular session, and any rules or regulations promulgated under such section,
77 shall expire if 42 U.S.C. Section 9858f, as enacted by the Child Care and Development Block
78 Grant (CCDBG) Act of 2014, and 45 CFR 98.43 are repealed or if Missouri no longer receives
79 federal funds from the CCDBG.

210.201. As used in sections 210.201 to 210.257, the following terms mean:

2 (1) "Child", an individual who is under the age of seventeen;

3 (2) **"Child care", care of a child away from his or her home for any part of the**
4 **twenty-four-hour day for compensation or otherwise. "Child care" is a voluntary**
5 **supplement to parental responsibility for the child's protection, development, and**
6 **supervision;**

7 (3) "Child-care facility" or "**child care facility**", a house or other place conducted or
8 maintained by any person who advertises or holds himself or herself out as providing **child** care
9 for ~~[more than six children during the daytime,]~~ **any part of the twenty-four-hour day** for
10 compensation or otherwise~~]; except those operated by a school system or in connection with a~~
11 ~~business establishment which provides child care as a convenience for its customers or its~~
12 ~~employees for no more than four hours per day, but a child-care facility shall not include any~~
13 ~~private or religious organization elementary or secondary school, a religious organization~~
14 ~~academic preschool or kindergarten for four- and five-year-old children, a home school, as~~
15 ~~defined in section 167.031, a weekly Sunday or Sabbath school, a vacation Bible school or child~~
16 ~~care made available while the parents or guardians are attending worship services or other~~
17 ~~meetings and activities conducted or sponsored by a religious organization. If a facility or~~
18 ~~program is exempt from licensure based on the school exception established in this subdivision,~~
19 ~~such facility or program shall submit documentation annually to the department to verify its~~
20 ~~licensure-exempt status; except that, under no circumstances shall any public or religious~~
21 ~~organization elementary or secondary school, a religious organization academic preschool or~~
22 ~~kindergarten for four- and five-year-old children, a home school, as defined in section 167.031,~~
23 ~~a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while~~
24 ~~the parents or guardians are attending worship services or other meetings and activities~~
25 ~~conducted or sponsored by a religious organization be required to submit documentation~~
26 ~~annually to the department to verify its licensure-exempt status]~~ **if providing child care to more**
27 **than:**

28 (a) **Six children; or**

29 (b) **Three children under two years of age;**

30 (4) "**Child care provider**" or "**provider**", the person or persons licensed or
31 required to be licensed under section 210.221 to establish, conduct, or maintain a child care
32 facility;

33 (5) "**Montessori school**", a child care program that subscribes to Maria
34 Montessori's educational philosophy and that is accredited by the American Montessori
35 Society or the Association Montessori Internationale;

36 (6) "**Neighborhood youth development program**", as described in section 210.278;

37 (7) "**Nursery school**", a program operated by a person or an organization with the
38 primary function of providing an educational program for preschool-age children for no
39 more than four hours per day per child;

40 ~~[(3)]~~ (8) "**Person**", any ~~[person]~~ **individual**, firm, corporation, **partnership**, association,
41 ~~[institution or other incorporated or unincorporated organization]~~ **agency, or an incorporated**
42 **or unincorporated organization regardless of the name used;**

43 [(4)] (9) "Religious organization", a church, synagogue or mosque; an entity that has or
44 would qualify for federal tax-exempt status as a nonprofit religious organization under Section
45 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care
46 facility is located is exempt from taxation because it is used for religious purposes;

47 (10) "School system", a program established primarily for education and that
48 meets the following criteria:

49 (a) Provides education in at least the first to the sixth grade; and

50 (b) Provides evidence that the school system's records will be accepted by a public
51 or private school for the transfer of any student;

52 (11) "Summer camp", a program operated from May to September by a person or
53 organization with the primary function of providing a summer recreational program for
54 children five years of age or older and providing no child care for children under five years
55 of age in the same building or in the same outdoor play area.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a
2 child-care facility for children, or to advertise or hold himself or herself out as being able to
3 perform any of the services as defined in section 210.201, without having in effect a written
4 license granted by the department of health and senior services; except that nothing in sections
5 210.203 to 210.245 shall apply to:

6 (1) Any person who is caring for six or fewer children, including a maximum of three
7 children under the age of two, at the same physical address. For purposes of this subdivision,
8 children who live in the caregiver's home and who are eligible for enrollment in a public
9 kindergarten, elementary, or high school shall not be considered in the total number of children
10 being cared for;

11 (2) Any person who receives free of charge, and not as a business, for periods not
12 exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or
13 children of personal friends of such person, and who receives custody of no other unrelated child
14 or children;

15 (3) Any graded boarding school~~], summer camp, hospital, sanitarium or home which is~~
16 ~~conducted in good faith primarily to provide education, recreation, medical treatment, or nursing~~
17 ~~or convalescent care for children]~~ **that is conducted in good faith primarily to provide**
18 **education;**

19 (4) ~~[Any child-care facility maintained or operated under the exclusive control of a~~
20 ~~religious organization. When a nonreligious organization, having as its principal purpose the~~
21 ~~provision of child-care services, enters into an arrangement with a religious organization for the~~
22 ~~maintenance or operation of a child-care facility, the facility is not under the exclusive control~~
23 ~~of the religious organization;~~

24 ~~———— (5) Any residential facility or day program licensed by the department of mental health~~
25 ~~pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation~~
26 ~~exclusively to children who have a primary diagnosis of mental disorder, mental illness,~~
27 ~~intellectual disability or developmental disability, as defined in section 630.005] Any summer~~
28 **camp that is conducted in good faith primarily to provide recreation; [and**

29 ~~———— (6) Any nursery school]~~ **(5) Any hospital, sanitarium, or home that is conducted in**
30 **good faith primarily to provide medical treatment or nursing or convalescent care for**
31 **children;**

32 **(6) Any residential facility or day program licensed by the department of mental**
33 **health under sections 630.705 to 630.760 that provides care, treatment, and habilitation**
34 **exclusively to children who have a primary diagnosis of mental disorder, mental illness,**
35 **intellectual disability, or developmental disability, as those terms are defined in section**
36 **630.005;**

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

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

39 **(9) Any business that operates a child care program for the convenience of its**
40 **customers if the following conditions are met:**

41 **(a) The business provides child care for employees' children for no more than four**
42 **hours per day; and**

43 **(b) Customers remain on site while their children are being cared for by the**
44 **business establishment;**

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

46 **(11) Any religious organization academic preschool or kindergarten for four- and**
47 **five-year-old children;**

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

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

52 **(14) Any religious organization elementary or secondary school;**

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

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

58 **(17) Any child care facility maintained or operated under the exclusive control of**
59 **a religious organization. If a nonreligious organization having as its principal purpose the**

60 **provision of child care services enters into an arrangement with a religious organization**
61 **for the maintenance or operation of a child care facility, the facility is not under the**
62 **exclusive control of the religious organization.**

63 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility
64 shall be exempt from licensure if such facility receives any state or federal funds for providing
65 care for children, except for federal funds for those programs which meet the requirements for
66 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. Section 1766.
67 Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed
68 to be funds received by a person or facility listed in subdivisions (1) and ~~[(4)]~~ **(17)** of subsection
69 1 of this section.

70 3. Any child care facility not exempt from licensure shall disclose the licensure status
71 of the facility to the parents or guardians of children for which the facility provides care. No
72 child care facility exempt from licensure shall represent to any parent or guardian of children for
73 which the facility provides care that the facility is licensed when such facility is in fact not
74 licensed. A parent or guardian shall sign a written notice indicating he or she is aware of the
75 licensure status of the facility. The facility shall keep a copy of this signed written notice on file.
76 All child care facilities shall provide the parent or guardian enrolling a child in the facility with
77 a written explanation of the disciplinary philosophy and policies of the child care facility.

210.252. 1. All buildings and premises used by a child-care facility to care for more than
2 six children except those exempted from the licensing provisions of the department of health and
3 senior services pursuant to subdivisions ~~[(1), (2), (3), and (5)]~~ **(1) to (15) of subsection 1** of
4 section 210.211, shall be inspected annually for fire and safety by the state fire marshal, the
5 marshal's designee or officials of a local fire district and for health and sanitation by the
6 department of health and senior services or officials of the local health department. Evidence
7 of compliance with the inspections required by this section shall be kept on file and available to
8 parents of children enrolling in the child-care facility.

9 2. Local inspection of child-care facilities may be accomplished if the standards
10 employed by local personnel are substantially equivalent to state standards and local personnel
11 are available for enforcement of such standards.

12 3. Any child-care facility may request a variance from a rule or regulation promulgated
13 pursuant to this section. The request for a variance shall be made in writing to the department
14 of health and senior services and shall include the reasons the facility is requesting the variance.
15 The department shall approve any variance request that does not endanger the health or safety
16 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
17 variance application shall be with the department of health and senior services. Local inspectors
18 may grant a variance, subject to approval by the department.

19 4. The department of health and senior services shall administer the provisions of
20 sections 210.252 to 210.256, with the cooperation of the state fire marshal, local fire departments
21 and local health agencies.

22 5. The department of health and senior services shall promulgate rules and regulations
23 to implement and administer the provisions of sections 210.252 to 210.256. Such rules and
24 regulations shall provide for the protection of children in all child-care facilities whether or not
25 such facility is subject to the licensing provisions of sections 210.201 to 210.245.

26 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
27 under the authority delegated in sections 210.252 to 210.256 shall become effective only if it
28 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
29 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
30 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
31 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
32 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
33 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
34 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
35 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

 210.254. 1. Child-care facilities operated by religious organizations pursuant to the
2 exempt status recognized in subdivision [(4)] (17) of subsection 1 of section 210.211 shall upon
3 enrollment of any child provide the parent or guardian enrolling the child two copies of a notice
4 of parental responsibility, one copy of which shall be retained in the files of the facility after the
5 enrolling parent acknowledges, by signature, having read and accepted the information contained
6 therein.

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

8 (1) Notification that the child-care facility is exempt as a religious organization from
9 state licensing and therefore not inspected or supervised by the department of health and senior
10 services other than as provided herein and that the facility has been inspected by those designated
11 in section 210.252 and is complying with the fire, health and sanitation requirements of sections
12 210.252 to 210.257;

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

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

20 (4) Notification that background checks have been conducted under the provisions of
21 section 210.1080;

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

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

24 3. A copy of notice of parental responsibility, signed by the principal operating officer
25 of the exempt child-care facility and the individual primarily responsible for the religious
26 organization conducting the child-care facility and copies of the annual fire and safety
27 inspections shall be filed annually during the month of August with the department of health and
28 senior services.

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