

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2151

101ST GENERAL ASSEMBLY

4675H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, RSMo, and to enact in lieu thereof twenty new sections relating to services provided to children.

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

Section A. Sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, to read as follows:

- 208.044. 1. The ~~[children's division]~~ **department of elementary and secondary education** shall provide child day care services to any person who meets the qualifications set forth at sections 301 and 302 of the Family Support Act of 1988 (P.L. 100-485).
2. The division shall purchase the child day care services required by this section by making payments directly to any providers of day care services licensed pursuant to chapter 210 or to providers of day care services who are not required by chapter 210 to be licensed because they are providing care to no more than six children pursuant to section 210.211.
3. When a person who has been eligible and receiving day care services under this section becomes ineligible due to the end of the twelve-month period of transitional ~~[day]~~ **child care services**, as defined in section 208.400, such person may receive day care services

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.

11 from the ~~[division]~~ **department of elementary and secondary education** if otherwise
12 eligible for such services.

208.046. 1. The ~~[children's division]~~ **department of elementary and secondary
2 education** shall promulgate rules ~~[to become effective no later than July 1, 2011,]~~ to modify
3 the income eligibility criteria for any person receiving state-funded child care assistance
4 ~~[under this chapter,]~~ either through vouchers or direct reimbursement to child care providers
5 ~~[;]~~ as follows:

6 (1) Child care recipients eligible under this chapter and the criteria set forth in ~~[43
7 CSR 35-32.010]~~ **5 CSR 25-200** may pay a fee based on adjusted gross income and family size
8 unit based on a child care sliding fee scale established by the ~~[children's division]~~
9 **department of elementary and secondary education**, which shall be subject to
10 appropriations. However, a person receiving state-funded child care assistance under this
11 chapter and whose income surpasses the annual appropriation level may continue to receive
12 reduced subsidy benefits on a scale established by the ~~[children's division]~~ **department of
13 elementary and secondary education**, at which time such person will have assumed the full
14 cost of the maximum base child care subsidy rate established by the ~~[children's division]~~
15 **department of elementary and secondary education** and shall be no longer eligible for
16 child care subsidy benefits;

17 (2) The sliding scale fee may be waived for children with special needs as established
18 by the ~~[division]~~ **department of elementary and secondary education**; and

19 (3) The maximum payment by the ~~[division]~~ **department of elementary and
20 secondary education** shall be the applicable rate minus the applicable fee.

21 2. For purposes of this section, "annual appropriation level" shall mean the maximum
22 income level to be eligible for a full child care benefit as determined through the annual
23 appropriations process.

24 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
25 created under the authority delegated in this section shall become effective only if it complies
26 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
27 This section and chapter 536 are nonseverable and if any of the powers vested with the
28 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
29 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
30 rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid
31 and void.

208.053. 1. The provisions of this section shall be known as the "Low-Wage Trap
2 Elimination Act". In order to more effectively transition persons receiving state-funded child
3 care subsidy benefits under this chapter, the ~~[children's division]~~ **department of elementary
4 and secondary education**, in conjunction with the department of revenue, shall, subject to

5 appropriations, by July 1, 2022, implement a pilot program in a county with a charter form of
6 government and with more than six hundred thousand but fewer than seven hundred thousand
7 inhabitants, a county of the first classification with more than two hundred sixty thousand but
8 fewer than three hundred thousand inhabitants, and a county of the first classification with
9 more than two hundred thousand but fewer than two hundred sixty thousand inhabitants, to be
10 called the "Hand-Up Program", to allow applicants in the program to receive transitional child
11 care benefits without the requirement that such applicants first be eligible for full child care
12 benefits.

13 (1) For purposes of this section, "full child care benefits" shall be the full benefits
14 awarded to a recipient based on the income eligibility amount established by the division
15 through the annual appropriations process as of August 28, 2021, to qualify for the benefits
16 and shall not include the transitional child care benefits that are awarded to recipients whose
17 income surpasses the eligibility level for full benefits to continue. The hand-up program shall
18 be voluntary and shall be designed such that an applicant may begin receiving the transitional
19 child care benefit without having first qualified for the full child care benefit or any other tier
20 of the transitional child care benefit. Under no circumstances shall any applicant be eligible
21 for the hand-up program if the applicant's income does not fall within the transitional child
22 care benefit income limits established through the annual appropriations process.

23 (2) A participating recipient shall be allowed to opt out of the program at any time,
24 but such person shall not be allowed to participate in the program a second time.

25 2. The ~~[division]~~ **department of elementary and secondary education** shall track
26 the number of participants in the hand-up program and shall issue an annual report to the
27 general assembly by September 1, 2023, and annually on September first thereafter, detailing
28 the effectiveness of the pilot program in encouraging recipients to secure employment earning
29 an income greater than the maximum wage eligible for the full child care benefit. The report
30 shall also detail the costs of administration and the increased amount of state income tax paid
31 as a result of the program, as well as an analysis of whether the pilot program could be
32 expanded to include other types of benefits including but not limited to food stamps,
33 temporary assistance for needy families, low-income heating assistance, women, infants and
34 children supplemental nutrition program, the state children's health insurance program, and
35 MO HealthNet benefits.

36 3. The ~~[division]~~ **department of elementary and secondary education** shall pursue
37 all necessary waivers from the federal government to implement the hand-up program. If the
38 ~~[division]~~ **department of elementary and secondary education** is unable to obtain such
39 waivers, the ~~[division]~~ **department** shall implement the program to the degree possible
40 without such waivers.

41 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
42 created under the authority delegated under this section shall become effective only if it
43 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
44 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
45 the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
46 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
47 rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid
48 and void.

49 5. Pursuant to section 23.253 of the Missouri sunset act:

50 (1) The provisions of the new program authorized under this section shall sunset
51 automatically three years after August 28, 2021, unless reauthorized by an act of the general
52 assembly; and

53 (2) If such program is reauthorized, the program authorized under this section shall
54 sunset automatically three years after the effective date of the reauthorization of this section;
55 and

56 (3) This section shall terminate on September first of the calendar year immediately
57 following the calendar year in which the program authorized under this section is sunset.

210.027. 1. For child-care providers who receive state or federal funds for providing
2 child-care services, either by direct payment or through reimbursement to a child-care
3 beneficiary, the department of ~~[social services]~~ **elementary and secondary education** shall:

4 (1) Establish publicly available website access to provider-specific information about
5 any health and safety licensing or regulatory requirements for the providers, and including
6 dates of inspections, history of violations, and compliance actions taken, as well as the
7 consumer education information required under subdivision (12) of this ~~[section]~~ **subsection**
8 **and subsection 2 of this section;**

9 (2) Establish or designate one hotline for parents to submit complaints about child
10 care providers;

11 (3) Be authorized to revoke the registration of a registered provider for due cause;

12 (4) Require providers to be at least eighteen years of age;

13 (5) **(a)** Establish minimum requirements for building and physical premises to
14 include:

15 ~~[(a)]~~ **a.** Compliance with state and local fire, health, and building codes, which shall
16 include the ability to evacuate children in the case of an emergency; and

17 ~~[(b)]~~ **b.** Emergency preparedness and response planning.

18 **(b)** Child care providers shall meet ~~[these]~~ **such** minimum requirements prior to
19 receiving federal assistance. Where there are no local ordinances or regulations regarding
20 smoke detectors, the department shall require providers, by rule, to install and maintain an

21 adequate number of smoke detectors in the residence or other building where child care is
22 provided;

23 (6) Require providers to be tested for tuberculosis on the schedule required for
24 employees in licensed facilities;

25 (7) Require providers to notify parents if the provider does not have immediate access
26 to a telephone;

27 (8) Make providers aware of local opportunities for training in first aid and child care;

28 (9) Promulgate rules and regulations to define preservice training requirements for
29 child care providers and employees pursuant to applicable federal laws and regulations;

30 (10) Establish procedures for conducting unscheduled on-site monitoring of child
31 care providers prior to receiving state or federal funds for providing child care services either
32 by direct payment or through reimbursement to a child care beneficiary, and annually
33 thereafter;

34 (11) Require child care providers who receive assistance under applicable federal
35 laws and regulations to report to the department any serious injuries or death of children
36 occurring in child care; and

37 (12) With input from statewide stakeholders such as parents, child care providers or
38 administrators, and system advocate groups, establish a transparent system of quality
39 indicators appropriate to the provider setting that shall provide parents with a way to
40 differentiate between child care providers available in their communities as required by
41 federal rules.

42 **2. The system established under subdivision (12) of subsection 1 of this section**
43 shall describe the standards used to assess the quality of child care providers. The system
44 shall indicate whether the provider meets Missouri's registration or licensing standards, is in
45 compliance with applicable health and safety requirements, and the nature of any violations
46 related to registration or licensing requirements. The system shall also indicate if the provider
47 utilizes curricula and if the provider is in compliance with staff educational requirements.
48 Such system of quality indicators established under this subdivision with the input from
49 stakeholders shall be promulgated by rules. Any rule or portion of a rule, as that term is
50 defined in section 536.010, that is created under the authority delegated in this section shall
51 become effective only if it complies with and is subject to all of the provisions of chapter 536
52 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
53 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
54 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
55 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014,
56 shall be invalid and void.

57 **3. Subdivision (12) of subsection 1 of this section and subsection 2 of this**
58 ~~[subdivision]~~ **section** shall not be construed as authorizing the operation, establishment,
59 maintenance, or mandating or offering of incentives to participate in a quality rating system
60 under section ~~[161.216]~~ **161.217**.

61 ~~[2. No state agency shall enforce the provisions of this section until October 1, 2015,~~
62 ~~or six months after the implementation of federal regulations mandating such provisions,~~
63 ~~whichever is later.]~~

210.102. 1. There is hereby established within the department of ~~[social services]~~
2 **elementary and secondary education** the "Coordinating Board for Early Childhood", which
3 shall constitute a body corporate and politic, and shall include but not be limited to the
4 following members:

- 5 (1) A representative from the governor's office;
- 6 (2) A representative from each of the following departments: health and senior
7 services, mental health, social services, and elementary and secondary education;
- 8 (3) A representative of the judiciary;
- 9 (4) A representative of the family and community trust board (FACT);
- 10 (5) A representative from the head start program; **and**
- 11 (6) Nine members appointed by the governor with the advice and consent of the
12 senate who are representatives of the groups, such as business, philanthropy, civic groups,
13 faith-based organizations, parent groups, advocacy organizations, early childhood service
14 providers, and other stakeholders.

15 **2.** The coordinating board may make all rules it deems necessary to enable it to
16 conduct its meetings, elect its officers, and set the terms and duties of its officers. The
17 coordinating board shall elect from amongst its members a ~~[chairperson]~~ **chair**, vice
18 ~~[chairperson]~~ **chair**, a secretary-reporter, and such other officers as it deems necessary.
19 Members of the board shall serve without compensation but may be reimbursed for actual
20 expenses necessary to the performance of their official duties for the board.

21 ~~[2.]~~ **3.** The coordinating board for early childhood shall have the power to:

- 22 (1) Develop a comprehensive statewide long-range strategic plan for a cohesive early
23 childhood system;
- 24 (2) Confer with public and private entities for the purpose of promoting and
25 improving the development of children from birth through age five of this state;
- 26 (3) Identify legislative recommendations to improve services for children from birth
27 through age five;
- 28 (4) Promote coordination of existing services and programs across public and private
29 entities;
- 30 (5) Promote research-based approaches to services and ongoing program evaluation;

31 (6) Identify service gaps and advise public and private entities on methods to close
32 such gaps;

33 (7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the
34 coordinating board for early childhood fund from any source, public or private, and enter into
35 contracts or other transactions with any federal or state agency, any private organizations, or
36 any other source in furtherance of the purpose of subsection 1 of this section and this
37 subsection, and take any and all actions necessary to avail itself of such aid and cooperation;

38 (8) Direct disbursements from the coordinating board for early childhood fund as
39 provided in this section;

40 (9) Administer the coordinating board for early childhood fund and invest any portion
41 of the moneys not required for immediate disbursement in obligations of the United States or
42 any agency or instrumentality of the United States, in obligations of the state of Missouri and
43 its political subdivisions, in certificates of deposit and time deposits, or other obligations of
44 banks and savings and loan associations, or in such other obligations as may be prescribed by
45 the board;

46 (10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or
47 otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal
48 property or any interests therein, wherever situated;

49 (11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its
50 property or any interest therein, wherever situated;

51 (12) Employ and fix the compensation of an executive director and such other agents
52 or employees as it considers necessary;

53 (13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the
54 manner in which its business may be transacted;

55 (14) Adopt and use an official seal;

56 (15) Assess or charge fees as the board determines to be reasonable to carry out its
57 purposes;

58 (16) Make all expenditures which are incident and necessary to carry out its purposes;

59 (17) Sue and be sued in its official name; **and**

60 (18) Take such action, enter into such agreements, and exercise all functions
61 necessary or appropriate to carry out the duties and purposes set forth in this section.

62 [3-] 4. There is hereby created the "Coordinating Board for Early Childhood Fund"
63 which shall consist of the following:

64 (1) Any moneys appropriated by the general assembly for use by the board in
65 carrying out the powers set out in subsections 1 ~~and 2~~ to 3 of this section;

66 (2) Any moneys received from grants or which are given, donated, or contributed to
67 the fund from any source;

68 (3) Any moneys received as fees authorized under subsections 1 ~~and 2~~ to 3 of this
69 section;

70 (4) Any moneys received as interest on deposits or as income on approved
71 investments of the fund; **and**

72 (5) Any moneys obtained from any other available source.

73 **5.** Notwithstanding the provisions of section 33.080 to the contrary, any moneys
74 remaining in the coordinating board for early childhood fund at the end of the biennium shall
75 not revert to the credit of the general revenue fund.

210.203. The department of ~~health and senior services~~ **elementary and secondary**
2 **education** shall maintain a record of substantiated, signed parental complaints against child
3 care facilities licensed pursuant to this chapter, and shall make such complaints and findings
4 available to the public upon request.

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~~ **oneself** out as being
3 able to perform any of the services as defined in section 210.201, without having in effect a
4 written license granted by the department of ~~health and senior services~~ **elementary and**
5 **secondary education**; except that nothing in sections 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
10 children 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
14 child or children;

15 (3) Any graded boarding school that is conducted in good faith primarily to provide
16 education;

17 (4) Any summer camp that is conducted in good faith primarily to provide recreation;

18 (5) Any hospital, sanitarium, or home that is conducted in good faith primarily to
19 provide medical treatment or nursing or convalescent care for children;

20 (6) Any residential facility or day program licensed by the department of mental
21 health under sections 630.705 to 630.760 that provides care, treatment, and habilitation
22 exclusively to children who have a primary diagnosis of mental disorder, mental illness,
23 intellectual disability, or developmental disability, as those terms are defined in section
24 630.005;

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

- 26 (8) Any Montessori school as defined in section 210.201;
- 27 (9) Any business that operates a child care program for the convenience of its
28 customers **or its employees** if the following conditions are met:
- 29 (a) The business provides child care for **customers' or** employees' children for no
30 more than four hours per day; and
- 31 (b) Customers **or employees** remain on site while their children are being cared for
32 by the business establishment;
- 33 (10) Any home school as defined in section 167.031;
- 34 (11) Any religious organization academic preschool or kindergarten for four- and
35 five-year-old children;
- 36 (12) Any weekly Sunday or Sabbath school, a vacation bible school, or child care
37 made available while the parents or guardians are attending worship services or other
38 meetings and activities conducted or sponsored by a religious organization;
- 39 (13) Any neighborhood youth development program under section 210.278;
- 40 (14) Any religious organization elementary or secondary school;
- 41 (15) Any private organization elementary or secondary school system providing child
42 care to children younger than school age. If a facility or program is exempt from licensure
43 based upon this exception, such facility or program shall submit documentation annually to
44 the department to verify its licensure-exempt status;
- 45 (16) Any nursery school as defined in section 210.201; and
- 46 (17) Any child care facility maintained or operated under the exclusive control of a
47 religious organization. If a nonreligious organization having as its principal purpose the
48 provision of child care services enters into an arrangement with a religious organization for
49 the maintenance or operation of a child care facility, the facility is not under the exclusive
50 control of the religious organization.
- 51 2. Notwithstanding the provisions of subsection 1 of this section, no child-care
52 facility shall be exempt from licensure if such facility receives any state or federal funds for
53 providing care for children, except for federal funds for those programs which meet the
54 requirements for participation in the Child and Adult Care Food Program pursuant to 42
55 U.S.C. Section 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257
56 shall not be construed to be funds received by a person or facility listed in subdivisions (1)
57 and (17) of subsection 1 of this section.
- 58 3. Any child care facility not exempt from licensure shall disclose the licensure status
59 of the facility to the parents or guardians of children for which the facility provides care. No
60 child care facility exempt from licensure shall represent to any parent or guardian of children
61 for which the facility provides care that the facility is licensed when such facility is in fact not
62 licensed. A parent or guardian shall sign a written notice indicating [~~he or she~~] **such parent**

63 **or guardian** is aware of the licensure status of the facility. The facility shall keep a copy of
64 this signed written notice on file. All child care facilities shall provide the parent or guardian
65 enrolling a child in the facility with a written explanation of the disciplinary philosophy and
66 policies of the child care facility.

210.221. 1. The department of [~~health and senior services~~] **elementary and
2 secondary education** shall have the following powers and duties:

3 (1) After inspection, to grant licenses to persons to operate child-care facilities if
4 satisfied as to the good character and intent of the applicant and that such applicant is
5 qualified and equipped to render care or service conducive to the welfare of children. Each
6 license shall specify the kind of child-care services the licensee is authorized to perform, the
7 number of children that can be received or maintained, and their ages [~~and sex~~];

8 (2) To inspect the conditions of the homes and other places in which the applicant
9 operates a child-care facility, inspect their books and records, premises and children being
10 served, examine their officers and agents, deny, suspend, place on probation or revoke the
11 license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the
12 rules and regulations made by the department of [~~health and senior services~~] **elementary and
13 secondary education**. The [~~director~~] **commissioner** also may revoke or suspend a license
14 when the licensee [~~fails to renew or~~] surrenders the license;

15 (3) To promulgate and issue rules and regulations the department deems necessary or
16 proper in order to establish standards of service and care to be rendered by such licensees to
17 children. No rule or regulation promulgated by the [~~division~~] **department** shall in any
18 manner restrict or interfere with any religious instruction, philosophies or ministries provided
19 by the facility and shall not apply to facilities operated by religious organizations which are
20 not required to be 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. Any child-care facility may request a variance from a rule or regulation
27 promulgated pursuant to this section. The request for a variance shall be made in writing to
28 the department of [~~health and senior services~~] **elementary and secondary education** and
29 shall include the reasons the facility is requesting the variance. The department shall approve
30 any variance request that does not endanger the health or safety of the children served by the
31 facility. The burden of proof at any appeal of a disapproval of a variance application shall be
32 with the department [~~of health and senior services~~]. Local inspectors may grant a variance,
33 subject to approval by the department [~~of health and senior services~~].

34 3. The department of **elementary and secondary education** shall deny, suspend,
35 place on probation or revoke a license if ~~[it]~~ **the department** receives official written notice
36 that the local governing body has found that license is prohibited by any local law related to
37 the health and safety of children. The department may deny an application for a license if the
38 department determines that a home or other place in which an applicant would operate a
39 child-care facility is located within one thousand feet of any location where a person required
40 to register under sections 589.400 to 589.425 either resides, as that term is defined in
41 subsection 3 of section 566.147, or regularly receives treatment or services, excluding any
42 treatment or services delivered in a hospital, as that term is defined in section 197.020, or in
43 facilities owned or operated by a hospital system. The department may, after inspection, find
44 the licensure, denial of licensure, suspension or revocation to be in the best interest of the
45 state.

46 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
47 created under the authority delegated in sections 210.201 to 210.245 shall become effective
48 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
49 section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force
50 and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
51 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
52 applicable provisions of law. This section and chapter 536 are nonseverable and if any of the
53 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
54 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
55 the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
56 shall be invalid and void.

210.223. 1. All licensed child care facilities that provide care for children less than
2 one year of age shall implement and maintain a written safe sleep policy in accordance with
3 the most recent safe sleep recommendations of the American Academy of Pediatrics. The
4 purpose of the safe sleep policy is to maintain a safe sleep environment that reduces the risk
5 of sudden infant death syndrome and sudden unexpected infant deaths in children less than
6 one year of age.

7 2. When, in the opinion of the infant's licensed health care provider, an infant requires
8 alternative sleep positions or special sleeping arrangements that differ from those set forth in
9 the most recent sleep recommendations of the American Academy of Pediatrics, the child
10 care facility shall be provided with written instructions, signed by the infant's licensed health
11 care provider, detailing the alternative sleep positions or special sleeping arrangements for
12 such infant. The child care facility shall put the infant to sleep in accordance with such
13 written instructions.

14 3. As used in this section, the following terms shall mean:

15 (1) "Sudden infant death syndrome", the sudden death of an infant less than one year
16 of age that cannot be explained after a thorough investigation has been conducted, including a
17 complete autopsy, an examination of the death scene, and a review of the clinical history;

18 (2) "Sudden unexpected infant death", the sudden and unexpected death of an infant
19 less than one year of age in which the manner and cause of death are not immediately obvious
20 prior to investigation. Causes of sudden unexpected infant death include, but are not limited
21 to, metabolic disorders, hypothermia or hyperthermia, neglect or homicide, poisoning, and
22 accidental suffocation.

23 4. All employees of licensed child care facilities who care for infants less than one
24 year of age or any volunteer who may be assisting at the facility shall successfully complete
25 department-approved training on the most recent safe sleep recommendations of the
26 American Academy of Pediatrics every three years.

27 5. The department **of elementary and secondary education** shall promulgate rules to
28 implement the provisions of this section. Such rules shall include, but not be limited to:

29 (1) Amending any current rules which are not in compliance with the most recent safe
30 sleep recommendations of the American Academy of Pediatrics~~[-including but not limited to~~
31 ~~19 CSR 30.62-092(1)C which permits the use of bumper pads in cribs or playpens];~~

32 (2) Keeping soft or loose bedding away from sleeping infants and out of safe sleep
33 environments including, but not limited to, bumper pads, pillows, quilts, comforters, sleep
34 positioning devices, sheepskins, blankets, flat sheets, cloth diapers, bibs, and other similar
35 items; and

36 (3) Prohibiting blankets or other soft or loose bedding from being hung on the sides
37 of cribs.

38 6. The department **of elementary and secondary education** may adopt emergency
39 rules to implement the requirements of this section. Any rule or portion of a rule, as that term
40 is defined in section 536.010, that is created under the authority delegated in this section shall
41 become effective only if it complies with and is subject to all of the provisions of chapter 536
42 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
43 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
44 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
45 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015,
46 shall be invalid and void.

210.231. The department of ~~[health and senior services]~~ **elementary and secondary**
2 **education** may designate to act for it, with full authority of law, any instrumentality of any
3 political subdivision of the state of Missouri deemed by the department of ~~[health and senior~~
4 ~~services]~~ **elementary and secondary education** to be competent, to investigate and inspect
5 licensees and applicants for a license. Local inspection of child care facilities may be

6 accomplished if the standards employed by local personnel are substantially equivalent to
7 state standards and local personnel are available for enforcement of such standards.

210.241. Any person aggrieved by a final decision of the department of [~~health and~~
2 ~~senior services~~] **elementary and secondary education** made in the administration of sections
3 210.201 to 210.245 shall be entitled to judicial review thereof as provided in chapter 536.

210.245. 1. Any person who violates any provision of sections 210.201 to 210.245,
2 or who for such person or for any other person makes materially false statements in order to
3 obtain a license or the renewal thereof pursuant to sections 210.201 to 210.245, shall be guilty
4 of a class C misdemeanor for the first offense and shall be assessed a fine not to exceed seven
5 hundred fifty dollars and shall be guilty of a class A misdemeanor and shall be assessed a fine
6 of up to two thousand dollars per day, not to exceed a total of ten thousand dollars for
7 subsequent offenses. In case such guilty person is a corporation, association, institution or
8 society, the officers thereof who participate in such misdemeanor shall be subject to the
9 penalties provided by law.

10 2. If the department of [~~health and senior services~~] **elementary and secondary**
11 **education** proposes to deny, suspend, place on probation or revoke a license, the department
12 [~~of health and senior services~~] shall serve upon the applicant or licensee written notice of the
13 proposed action to be taken. The notice shall contain a statement of the type of action
14 proposed, the basis for it, the date the action will become effective, and a statement that the
15 applicant or licensee shall have thirty days to request in writing a hearing before the
16 administrative hearing commission and that such request shall be made to the department of
17 [~~health and senior services~~] **elementary and secondary education**. If no written request for
18 a hearing is received by the department of [~~health and senior services~~] **elementary and**
19 **secondary education** within thirty days of the delivery or mailing by certified mail of the
20 notice to the applicant or licensee, the proposed discipline shall take effect on the thirty-first
21 day after such delivery or mailing of the notice to the applicant or licensee. If the applicant or
22 licensee makes a written request for a hearing, the department of [~~health and senior services~~]
23 **elementary and secondary education** shall file a complaint with the administrative hearing
24 commission within ninety days of receipt of the request for a hearing.

25 3. The department of [~~health and senior services~~] **elementary and secondary**
26 **education** may issue letters of censure or warning without formal notice or hearing.
27 Additionally, the department of [~~health and senior services~~] **elementary and secondary**
28 **education** may place a licensee on probation pursuant to chapter 621.

29 4. The department of [~~health and senior services~~] **elementary and secondary**
30 **education** may suspend any license simultaneously with the notice of the proposed action to
31 be taken in subsection 2 of this section, if the department [~~of health and senior services~~] finds
32 that there is a threat of imminent bodily harm to the children in care. The notice of

33 suspension shall include the basis of the suspension and the appeal rights of the licensee
34 pursuant to this section. The licensee may appeal the decision to suspend the license to the
35 department of ~~[health and senior services]~~ **elementary and secondary education**. The
36 appeal shall be filed within ten days from the delivery or mailing by certified mail of the
37 notice of appeal. A hearing shall be conducted by the department of ~~[health and senior~~
38 ~~services]~~ **elementary and secondary education** within ten days from the date the appeal is
39 filed. The suspension shall continue in effect until the conclusion of the proceedings,
40 including review thereof, unless sooner withdrawn by the department of ~~[health and senior~~
41 ~~services]~~ **elementary and secondary education**, dissolved by a court of competent
42 jurisdiction or stayed by the administrative hearing commission. Any person aggrieved by a
43 final decision of the department made pursuant to this section shall be entitled to judicial
44 review in accordance with chapter 536.

45 5. In addition to initiating proceedings pursuant to subsection 1 of this section, or in
46 lieu thereof, the prosecuting attorney of the county where the child-care facility is located
47 may file suit for a preliminary and permanent order overseeing or preventing the operation of
48 a child-care facility for violating any provision of sections 210.201 to 210.245. The order
49 shall remain in force until such a time as the court determines that the child-care facility is in
50 substantial compliance. If the prosecuting attorney refuses to act or fails to act after receipt of
51 notice from the department of ~~[health and senior services]~~ **elementary and secondary**
52 **education**, the department ~~[of health and senior services]~~ may request that the attorney
53 general seek an injunction of the operation of such child-care facility.

54 6. In cases of imminent bodily harm to children in the care of a child-care facility,
55 including an unlicensed, nonexempt facility, the department **of elementary and secondary**
56 **education** may file suit in the circuit court of the county in which the child-care facility is
57 located for injunctive relief, which may include removing the children from the facility,
58 overseeing the operation of the facility or closing the facility. Failure by the department to
59 file suit under the provisions of this subsection shall not be construed as creating any liability
60 in tort or incurring other obligations or duties except as otherwise specified.

61 7. Any person who operates an unlicensed, nonexempt child-care facility in violation
62 of the provisions of sections 210.201 to 210.245 shall be liable for a civil penalty of not less
63 than seven hundred fifty dollars and not more than two thousand dollars. The department **of**
64 **elementary and secondary education** shall serve upon such person written notice of the
65 department's findings as to the child-care facility's unlicensed, nonexempt status, along with
66 educational materials about Missouri's child-care facility laws and regulations, how a facility
67 may become exempt or licensed, and penalties for operating an unlicensed, nonexempt child-
68 care facility. The notice shall contain a statement that the person shall have thirty days to
69 become compliant with sections 210.201 to 210.245, including attaining exempt status or

70 becoming licensed. The person's failure to do so shall result in a civil action in the circuit
71 court of Cole County or criminal charges under this section. If, following the receipt of the
72 written notice, the person operating the child-care facility fails to become compliant with
73 sections 210.201 to 210.245, the department may bring a civil action in the circuit court of
74 Cole County against such person. The department may, but shall not be required to, request
75 that the attorney general bring the action in place of the department. No civil action provided
76 by this subsection shall be brought if the criminal penalties under subsection 1 of this section
77 have been previously ordered against the person for the same violation. Failure by the
78 department to file suit under the provisions of this subsection shall not be construed as
79 creating any liability in tort or incurring other obligations or duties except as otherwise
80 specified.

81 8. There shall be established the "Family Child Care Provider Fund" in the state
82 treasury, which shall consist of such funds as appropriated by the general assembly. The state
83 treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the
84 state treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in
85 the fund shall be used solely by the department **of elementary and secondary education** for
86 the dissemination of information concerning compliance with child-care facility laws and
87 regulations, including licensed or exempt status; educational initiatives relating to, inter alia,
88 child care, safe sleep practices, and child nutrition; and the provision of financial assistance
89 on the basis of need for family child-care homes to become licensed, as determined by the
90 department and subject to available moneys in the fund. Notwithstanding the provisions of
91 section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium
92 shall not revert to the credit of the general revenue fund. The state treasurer shall invest
93 moneys in the fund in the same manner as other funds are invested. Any interest and moneys
94 earned on such investments shall be credited to the fund.

210.251. 1. ~~[By January 1, 1994,]~~ Financial incentives shall be provided by the
2 department of ~~[health and senior services]~~ **elementary and secondary education** through the
3 child development block grant and other public moneys for child-care facilities wishing to
4 upgrade their standard of care and which meet quality standards.

5 2. The department of health and senior services shall make federal funds available to
6 licensed or inspected child-care centers pursuant to federal law as set forth in the Child and
7 Adult Care Food Program, 42 U.S.C. Section 1766.

8 3. Notwithstanding any other provision of law to the contrary, in the administration of
9 the program for at-risk children through the Child and Adult Care Food Program, 42 U.S.C.
10 Section 1766, this state shall not have requirements that are stricter than federal regulations
11 for participants in such program. Child care facilities shall not be required to be licensed

12 child care providers to participate in such federal program so long as minimum health and
13 safety standards are met and documented.

210.254. 1. Child-care facilities operated by religious organizations pursuant to the
2 exempt status recognized in subdivision (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
4 notice of parental responsibility, one copy of which shall be retained in the files of the facility
5 after the enrolling parent acknowledges, by signature, having read and accepted the
6 information contained 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~~
10 ~~senior services~~ **elementary and secondary education** other than as provided herein and that
11 the facility has been inspected by those designated in section 210.252 and is complying with
12 the fire, health and sanitation requirements of sections 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
15 each;

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

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

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

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

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

210.255. 1. A parent or guardian of a child enrolled in a child care facility
2 established, maintained or operated by a religious organization who has cause to believe that
3 this section and section 210.254 are being violated may notify appropriate local law
4 enforcement authorities.

5 2. If a child care facility maintained or operated under the exclusive control of a
6 religious organization is suspected of violating any provision of sections 210.252 to 210.255,

7 or if there is good cause to believe that the signatory made a materially false statement in the
8 notice of parental responsibility required by sections 210.252 to 210.255, the department of
9 ~~[health and senior services]~~ **elementary and secondary education** shall give twenty days'
10 written notice to the facility concerning the nature of its suspected noncompliance. If
11 compliance is not forthcoming within the twenty days, the department shall thereafter notify
12 the prosecuting attorney of the county wherein the facility is located concerning the suspected
13 noncompliance. If the prosecuting attorney refuses to act or fails to act within thirty days of
14 receipt of notice from the department, the department of ~~[health and senior services]~~
15 **elementary and secondary education** may notify the attorney general concerning the
16 suspected noncompliance and the attorney general may proceed under section ~~[210.248]~~
17 **27.060**.

210.256. 1. Any person who violates any provision of sections 210.252 to 210.255,
2 or who for such person or for any other person makes a materially false statement in the
3 notice of parental responsibility required by sections 210.254 and 210.255, shall be guilty of
4 an infraction for the first offense and shall be assessed a fine not to exceed two hundred
5 dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such
6 guilty person is a corporation, association, institution, or society, the officers thereof who
7 participate in such violation shall be subject to the same penalties.

8 2. In addition to initiating proceedings pursuant to subsection 1 of this section, or in
9 lieu thereof, the prosecuting attorney of the county where the child-care facility is located
10 may file suit for a preliminary and permanent order overseeing or preventing the operation of
11 a child-care facility for violating any provision of section 210.252. The injunction shall
12 remain in force until such time as the court determines that the child-care facility is in
13 substantial compliance.

14 3. In cases of imminent bodily harm to children in the care of a child-care facility, the
15 department of ~~[health and senior services]~~ **elementary and secondary education** may apply
16 to the circuit court of the county in which the child-care facility is located for injunctive relief,
17 which may include removing the children from the facility, overseeing the operation of the
18 facility or closing the facility.

210.258. 1. The provisions of this section and section 210.259 apply to a child care
2 facility maintained or operated under the exclusive control of a religious organization.
3 Nothing in sections 210.252 to 210.257 shall be construed to authorize the department of
4 ~~[health and senior services]~~ **elementary and secondary education** or any other governmental
5 entity:

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

8 (2) To interfere with the selection, certification, minimal formal educational degree
9 requirements, supervision or terms of employment of a facility's personnel;

10 (3) To interfere with the selection of individuals sitting on any governing board of a
11 child care facility;

12 (4) To interfere with the selection of children enrolled in a child care facility; or

13 (5) To prohibit the use of corporal punishment. However, the department of ~~health~~
14 ~~and senior services~~ **elementary and secondary education** may require the child care facility
15 to provide the parent or guardian enrolling a child in the facility a written explanation of the
16 disciplinary philosophy and policies of the child care facility.

17 2. Nothing in subdivisions (2) and (3) of **subsection 1** of this section shall be
18 interpreted to relieve a child care facility of its duties and obligations under section 210.1080,
19 or to interfere with the department's duties and obligations under said section.

210.275. Any program licensed by the department of ~~health and senior services~~
2 **elementary and secondary education** pursuant to this chapter providing child care to
3 school-age children that is located and operated on elementary or secondary school property
4 shall comply with the child-care licensure provisions in this chapter; except that, for safety,
5 health and fire purposes, all buildings and premises for any such programs shall be deemed to
6 be in compliance with the child-care licensure provisions in this chapter.

210.1007. 1. The department of ~~health and senior services~~ **elementary and**
2 **secondary education** shall ~~on or before July 1, 2003, and~~ quarterly ~~thereafter,~~ provide all
3 child-care facilities licensed pursuant to this chapter with a comprehensive list of children's
4 products that have been identified by the Consumer Product Safety Commission as unsafe.

5 2. Upon notification, a child-care facility shall inspect its premises and immediately
6 dispose of any unsafe children's products which are discovered. Such inspection shall be
7 documented by signing and dating the department's notification form in a space designated by
8 the department. Signed and dated notification forms shall be maintained in the facility's files
9 for departmental inspection.

10 3. During regular inspections, the department **of elementary and secondary**
11 **education** shall document the facility's maintenance of past signed and dated notification
12 forms. If the department discovers an unsafe children's product, the facility shall be
13 instructed to immediately dispose of the product. If a facility fails to dispose of a product
14 after being given notice that it is unsafe, it shall be considered a violation under the
15 inspection.

16 4. The department **of elementary and secondary education** may promulgate rules
17 for the implementation of this section. Any rule or portion of a rule, as that term is defined in
18 section 536.010, that is created under the authority delegated in this section shall become
19 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if

20 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
 21 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
 22 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
 23 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002,
 24 shall be invalid and void.

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

2 (1) "Child care provider", a person licensed, regulated, or registered to provide child
 3 care within the state of Missouri, including the member or members, manager or managers,
 4 shareholder or shareholders, director or directors, and officer or officers of any entity
 5 licensed, regulated, or registered to provide child care within the state of Missouri;

6 (2) "Child care staff member", a child care provider; persons employed by the child
 7 care provider for compensation, including contract employees or self-employed individuals;
 8 individuals or volunteers whose activities involve the care or supervision of children for a
 9 child care provider or unsupervised access to children who are cared for or supervised by a
 10 child care provider; individuals residing in a family child care home who are ~~[seventeen years~~
 11 ~~of age or older before January 1, 2021, or]~~ eighteen years of age or older ~~[on or after January~~
 12 ~~1, 2021]~~; or individuals residing in a ~~[family child care]~~ home **where child care is provided**
 13 who are under ~~[seventeen years of age before January 1, 2021, or under]~~ eighteen years of age
 14 ~~[on or after January 1, 2021,]~~ and have been certified as an adult for the commission of an
 15 offense;

16 (3) "Criminal background check":

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

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

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

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

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

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

27 (4) ~~"[Designated] Department", the department [to which criminal background check~~
 28 ~~results are sent; the department of health and senior services for child care staff members or~~
 29 ~~prospective child care staff members of licensed child care facilities; and the department of~~
 30 ~~social services for child care staff members or prospective child care staff members of a~~
 31 ~~license exempt child care facility or an unlicensed child care facility registered with the~~

32 ~~department of social services under section 210.027]~~ **of elementary and secondary**
33 **education;**

34 (5) "Qualifying result" or "qualifying criminal background check", a finding that a
35 child care staff member or prospective child care staff member is eligible for employment or
36 presence in a child care setting described under this section.

37 2. (1) Prior to the employment or presence of a child care staff member in a licensed,
38 **license-exempt, or unlicensed registered** child care facility, the child care provider shall
39 request the results of a criminal background check for such child care staff member from the
40 department [~~of health and senior services~~].

41 (2) [~~Prior to the employment or presence of a child care staff member in a license-~~
42 ~~exempt child care facility or an unlicensed child care facility registered with the department~~
43 ~~of social services, the child care provider shall request the results of a criminal background~~
44 ~~check for such child care staff member from the department of social services.~~

45 ~~(3)]~~ A prospective child care staff member may begin work for a child care provider
46 after **receiving** the qualifying result of either a Federal Bureau of Investigation fingerprint
47 check or a search of the Missouri criminal registry or repository with the use of fingerprints
48 [~~has been received from the designated department~~]; however, pending completion of the
49 criminal background check, the prospective child care staff member shall be supervised at all
50 times by another child care staff member who received a qualifying result on the criminal
51 background check within the past five years.

52 ~~[(4)]~~ **(3)** Any individual who meets the definition of child care provider but is not
53 responsible for the oversight or direction of the child care facility and does not have
54 independent access to the child care facility is not required to request the results of a criminal
55 background check under this section; however, such individual shall be accompanied by an
56 individual with a qualifying criminal background check in order to be present at the child care
57 facility during child care hours.

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

62 4. Upon completion of the criminal background check, any child care staff member or
63 prospective child care staff member shall be ineligible for employment or presence at a
64 licensed or license-exempt child care facility or an unlicensed child care facility registered
65 with the department [~~of social services~~] and shall be disqualified from receipt of state or
66 federal funds for providing child care services either by direct payment or through
67 reimbursement to an individual who receives child care benefits if such person:

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

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

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

73 (4) Is listed as a perpetrator of child abuse or neglect under sections 210.109 to
74 210.183 or any other finding of child abuse or neglect based on any other state's registry or
75 database; or

76 (5) Has pled guilty or nolo contendere to or been found guilty of:

77 (a) Any felony for an offense against the person as defined in chapter 565;

78 (b) Any other offense against the person involving the endangerment of a child as
79 prescribed by law;

80 (c) Any misdemeanor or felony for a sexual offense as defined in chapter 566;

81 (d) Any misdemeanor or felony for an offense against the family as defined in chapter
82 568;

83 (e) Burglary in the first degree as defined in 569.160;

84 (f) Any misdemeanor or felony for robbery as defined in chapter 570;

85 (g) Any misdemeanor or felony for pornography or related offense as defined in
86 chapter 573;

87 (h) Any felony for arson as defined in chapter 569;

88 (i) Any felony for armed criminal action as defined in section 571.015, unlawful use
89 of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in
90 section 571.070, or the unlawful possession of an explosive **weapon** as defined in section
91 571.072;

92 (j) Any felony for making a terrorist threat as defined in section 574.115, 574.120, or
93 574.125;

94 (k) A felony drug-related offense committed during the preceding five years; or

95 (l) Any similar offense in any federal, state, municipal, or other court of similar
96 jurisdiction of which the director of the ~~designated~~ department has knowledge.

97 5. Household members ~~[seventeen years of age or older before January 1, 2021, or~~
98 ~~eighteen years of age or older on or after January 1, 2021, or household members under~~
99 ~~seventeen years of age before January 1, 2021, or under eighteen years of age on or after~~
100 ~~January 1, 2021,]~~ who have been certified as an adult for the commission of an offense shall
101 be ineligible to maintain a presence at a ~~[facility licensed as a family child care]~~ home **where**
102 **child care is provided** during child care hours if any one or more of the provisions of
103 subsection 4 of this section apply to such members.

104 6. A child care provider may also be disqualified from receipt of state or federal funds
105 for providing child care services either by direct payment or through reimbursement to an

106 individual who receives child care benefits if such person~~;~~ or any person ~~[seventeen years of~~
107 ~~age or older before January 1, 2021, or]~~ eighteen years of age or older ~~[on or after January 1,~~
108 ~~2021,]~~ residing in the household in which child care is being provided, excluding child care
109 provided in the child's home, has been refused licensure or has experienced licensure
110 suspension or revocation under section 210.221 or 210.496.

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

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

116 (2) The department of **elementary and secondary education, the department of**
117 **health and senior services, or the department of social services** provided to the first provider a
118 qualifying criminal background check result, consistent with this section, for the staff
119 member; and

120 (3) The staff member is employed by a child care provider within Missouri or has
121 been separated from employment from a child care provider within Missouri for a period of
122 not more than one hundred eighty consecutive days.

123 8. (1) The department ~~[processing]~~ **shall process** the request for a criminal
124 background check for any prospective child care staff member or child care staff member
125 ~~[shall do so]~~ as expeditiously as possible, but not to exceed forty-five days after the date on
126 which the provider submitted the request.

127 (2) The department shall provide the results of the criminal background check to the
128 child care provider in a statement that indicates whether the prospective child care staff
129 member or child care staff member is eligible or ineligible for employment or presence at the
130 child care facility or receipt of state or federal funds for providing child care services either by
131 direct payment or through reimbursement to an individual who receives child care benefits.
132 The department shall not reveal to the child care provider any disqualifying crime or other
133 related information regarding the prospective child care staff member or child care staff
134 member.

135 (3) If such prospective child care staff member or child care staff member is ineligible
136 for employment or presence at the child care facility, the department shall, when providing
137 the results of criminal background check, include information related to each disqualifying
138 crime or other related information, in a report to such prospective child care staff member or
139 child care staff member, along with information regarding the opportunity to appeal under
140 subsection 9 of this section.

141 (4) If a prospective child care provider or child care provider has been denied state or
142 federal funds by the department ~~[of social services]~~ for providing child care, ~~[he or she]~~ **such**

143 **individual** may appeal such denial to the department [~~of social services~~] **under section**
144 **210.027**.

145 9. (1) The prospective child care staff member or child care staff member may appeal
146 a finding of ineligibility for employment or presence at a child care facility in writing to the
147 department [~~that made the determination of ineligibility~~] to challenge the accuracy or
148 completeness of the information contained in [~~his or her~~] **such individual's** criminal
149 background check if [~~his or her~~] **such individual's** finding of ineligibility is based on one or
150 more of the following offenses:

- 151 (a) Murder, as described in 18 U.S.C. Section 1111;
- 152 (b) Felony child abuse or neglect;
- 153 (c) A felony crime against children, including child pornography;
- 154 (d) Felony spousal abuse;
- 155 (e) A felony crime involving rape or sexual assault;
- 156 (f) Felony kidnapping;
- 157 (g) Felony arson;
- 158 (h) Felony physical assault or battery;
- 159 (i) A violent misdemeanor offense committed as an adult against a child, including
160 the offense of child abuse, child endangerment, or sexual assault, or a misdemeanor offense
161 involving child pornography; or
- 162 (j) Any similar offense in any federal, state, municipal, or other court.

163 (2) If a finding of ineligibility is based on an offense not provided for in subdivision
164 (1) of this subsection, the prospective child care staff member or child care staff member may
165 appeal to challenge the accuracy or completeness of the information contained in [~~his or her~~]
166 **such individual's** criminal background check or to offer information mitigating the results
167 and explaining why an eligibility exception should be granted.

168 (3) The **written** appeal shall be filed with the department [~~that made the~~
169 ~~determination~~] within ten days from the mailing of the notice of ineligibility. [~~Such~~] **The**
170 department shall attempt to verify the accuracy of the information challenged by the
171 individual, including making an effort to locate any missing disposition information related to
172 the disqualifying offense. After the department verifies the accuracy of the information
173 challenged by the individual, the department shall [~~forward the appeal to the child care~~
174 ~~background screening review committee established in subdivision (4) of this subsection.~~
175 ~~The child care background screening review committee shall~~] make a final decision on the
176 written appeal, and such decision shall be made in a timely manner. Such decision shall be
177 considered a noncontested final agency decision by the department [~~that made the~~
178 ~~determination of ineligibility under this section~~] and appealable under section 536.150.
179 Such decision shall be appealed within thirty days of the mailing of the decision.

180 ~~[(4) There is hereby established a "Child Care Background Screening Review~~
181 ~~Committee", which shall consist of the directors of the department of health and senior~~
182 ~~services and the department of social services or the directors' designee or designees.~~

183 ~~(5) Any decision by the child care background screening review committee to grant~~
184 ~~an eligibility exception as allowed in this section shall only be made upon the approval of all~~
185 ~~committee members.~~

186 ~~10. The department of health and senior services and the department of social~~
187 ~~services are authorized to enter into any agreements necessary to facilitate the sharing of~~
188 ~~information between the departments for the enforcement of this section including, but not~~
189 ~~limited to, the results of the criminal background check or any of its individual components.~~

190 ~~11.] 10.~~ Nothing in this section shall prohibit ~~[either]~~ the department ~~[of health and~~
191 ~~senior services or the department of social services]~~ from requiring more frequent checks of
192 the family care safety registry established under section 210.903 or the central registry for
193 child abuse established under section 210.109 in order to determine eligibility for
194 employment or presence at the child care facility or receipt of state or federal funds for
195 providing child care services either by direct payment or through reimbursement to an
196 individual who receives child care benefits.

197 ~~[12.] 11.~~ The department ~~[of health and senior services and the department of social~~
198 ~~services]~~ may ~~[each]~~ adopt emergency rules to implement the requirements of this section.
199 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under
200 the authority delegated in this section shall become effective only if it complies with and is
201 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
202 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
203 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a
204 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
205 rule proposed or adopted after August 28, 2018, shall be invalid and void.

206 ~~[13.] 12.~~ The provisions of this section shall not apply to any child care facility, as
207 defined in section 210.201, maintained or operated under the exclusive control of a religious
208 organization, as described in subdivision (17) of subsection 1 of section 210.211, unless such
209 facility is a recipient of federal funds for providing care for children, except for federal funds
210 for those programs that meet the requirements for participation in the Child and Adult Care
211 Food Program under 42 U.S.C. Section 1766.

2 ~~[210.199. Any applicant for a grant or contract who offers early~~
3 ~~childhood development, education or care programs and who receives funds~~
4 ~~derived from an appropriation to the department of elementary and secondary~~
5 ~~education pursuant to paragraph (d) of subdivision (3) of section 313.835 shall~~
6 ~~be licensed by the department of health and senior services pursuant to~~
~~sections 210.201 to 210.259 prior to opening of the facility. The provisions of~~

7 ~~this section shall not apply to any grant or contract awarded to a request for~~
8 ~~proposal issued prior to August 28, 1999.]~~

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