

# SENATE BILL NO. 1063

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

4096S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 537.046, RSMo, and to enact in lieu thereof two new sections relating to liability of childhood sexual abuse.

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

Section A. Section 537.046, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.233 and 537.046, to read as follows:

**210.233. A child care provider applying for licensure pursuant to sections 210.201 to 210.245 which provides care for children between the overnight hours between six o'clock p.m. and six o'clock a.m., shall do the following in the licensure application:**

**(1) Demonstrate liability insurance with the limits of at least one million dollars per occurrence and which shall:**

**(a) Provide a defense and indemnity of the child care provider and employees and contractors of the child care provider for claims for physical injury, mental suffering, or death of a child in the provider's care and control;**

**(b) Include claims arising from assault and battery of a child in the provider's care and custody and lack of supervision of employees and contractors of the child care provider; and**

**(c) Not provide for the reduction of liability limits by the expense of defense of any such claims; and**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           (2) Provide a copy of the child care provider's policy  
19 related to the prevention of sexual abuse of children in the  
20 provider's care and control and which shall, at a minimum,  
21 include:

22           (a) Annual mandatory reporter training for all  
23 regular, temporary, and volunteer staff;

24           (b) Procedures for investigating the conduct of an  
25 individual who has been alleged or suspected of having  
26 sexually abused or attempting to sexually abuse a child  
27 under the provider's care and control; and

28           (c) Procedures for providing for the immediate  
29 separation of all children under the provider's care and  
30 control and the individual alleged or suspected of having  
31 sexually abused or attempting to sexually abuse a child  
32 under the provider's care and control.

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

3           (1) "Actions against nonperpetrator defendants", any  
4 action or claim to recover damages brought against a  
5 nonperpetrator defendant by any person alleging negligent or  
6 intentional failure to supervise a person that commits  
7 childhood sexual abuse, or that the nonperpetrator  
8 defendant's conduct caused or contributed to the childhood  
9 sexual abuse by another person including, but not be limited  
10 to, wrongful conduct, neglect or default in supervision,  
11 hiring, employment, training, monitoring, or failure to  
12 report, or the concealment of childhood sexual abuse;

13           (2) "Childhood sexual abuse", any act committed by the  
14 defendant against the plaintiff which act occurred when the  
15 plaintiff was under the age of eighteen years and which act  
16 would have been a violation of section 566.030, [566.040,  
17 566.050] 566.031, 566.032, 566.034, 566.060, [566.070,

18 566.080, 566.090] 566.061, 566.062, 566.064, 566.067,  
19 566.068, 566.069, 566.071, 566.083, 566.086, 566.093,  
20 566.095, 566.100, [566.110, or 566.120] 566.101, 566.209,  
21 566.210, 566.211, or [section] 568.020;

22 [(2)] (3) "Injury" or "illness", either a physical  
23 injury or illness or a psychological injury or illness. A  
24 psychological injury or illness need not be accompanied by  
25 physical injury or illness;

26 (4) "Nondisclosure clause", a provision in a contract  
27 or agreement that requires the parties to the contract or  
28 agreement not to disclose or discuss conduct, the existence  
29 of a settlement involving conduct, or information covered by  
30 the terms and conditions of the contract or agreement. The  
31 term "nondisclosure clause" shall not include agreements to  
32 not disclose the dollar amount included in the contract or  
33 agreement;

34 (5) "Nondisparagement clause", a provision in a  
35 contract or agreement that requires one or more parties to  
36 the contract or agreement not to make a negative statement  
37 about another party that relates to the contract, agreement,  
38 claim, or action.

39 2. Any action to recover damages from injury or  
40 illness caused by childhood sexual abuse **or actions against**  
41 **nonperpetrator defendants** in an action brought pursuant to  
42 this section shall be commenced [within ten years of the  
43 plaintiff attaining the age of twenty-one or within three  
44 years of the date the plaintiff discovers, or reasonably  
45 should have discovered, that the injury or illness was  
46 caused by childhood sexual abuse, whichever later occurs] **at**  
47 **any time.**

48 3. **The provisions of subsection 2 of this section**  
49 **shall apply to any action commenced on or after August 28,**

50 [2004] 2024, including any action which would have been  
51 barred by the application of the statute of limitation  
52 applicable prior to that date.

53 **4. In any action involving childhood sexual abuse or**  
54 **actions against nonperpetrator defendants, any nondisclosure**  
55 **clause or nondisparagement clause shall be judicially**  
56 **unenforceable. This subsection shall not apply to trade**  
57 **secrets or proprietary information.**

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