

SECOND REGULAR SESSION

SENATE BILL NO. 925

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time January 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4151S.02I

AN ACT

To repeal sections 210.025, 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, RSMo, and to enact in lieu thereof six new sections relating to child care facilities.

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

Section A. Sections 210.025, 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 210.201, 210.211, 210.221, 210.252, 210.254, and 210.1080, to read as follows:

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

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

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

(3) "Child-care facility" or "child care facility", a house or other place conducted or maintained by any person who advertises or holds himself or herself out as providing child care [for more than six children during the daytime] for any part of the twenty-four hour day, for compensation or otherwise, [except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old

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

17 children, a home school, as defined in section 167.031, a weekly Sunday or
18 Sabbath school, a vacation Bible school or child care made available while the
19 parents or guardians are attending worship services or other meetings and
20 activities conducted or sponsored by a religious organization. If a facility or
21 program is exempt from licensure based on the school exception established in
22 this subdivision, such facility or program shall submit documentation annually
23 to the department to verify its licensure-exempt status; except that, under no
24 circumstances shall any public or religious organization elementary or secondary
25 school, a religious organization academic preschool or kindergarten for four- and
26 five-year-old children, a home school, as defined in section 167.031, a weekly
27 Sunday or Sabbath school, a vacation Bible school or child care made available
28 while the parents or guardians are attending worship services or other meetings
29 and activities conducted or sponsored by a religious organization be required to
30 submit documentation annually to the department to verify its licensure-exempt
31 status] **if:**

32 **(a) Providing child care for more than six children; or**

33 **(b) Providing child care for more than three children under two**
34 **years of age;**

35 **(4) "Child care provider" or "provider", a person licensed or**
36 **required to be licensed under section 210.221, in order to establish,**
37 **conduct, or maintain a child care facility;**

38 **(5) "Montessori school", a child care program that subscribes to**
39 **Maria Montessori's educational philosophy and that is accredited by**
40 **the American Montessori Society or the Association Montessori**
41 **International;**

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

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

48 **[(3)] (8) "Person", any [person] individual, firm, corporation,**
49 **partnership, association, [institution or other] agency, or incorporated or**
50 **unincorporated organization, regardless of the name used;**

51 **[(4)] (9) "Religious organization", a church, synagogue or mosque; an**
52 **entity that has or would qualify for federal tax-exempt status as a nonprofit**

53 religious organization under Section 501(c) of the Internal Revenue Code; or an
54 entity whose real estate on which the child-care facility is located is exempt from
55 taxation because it is used for religious purposes;

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

58 **(a) Provides education in at least the first through the sixth**
59 **grade; and**

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

62 **(11) "Summer camp", a program operated from May to September**
63 **by a person or organization with the primary function of providing a**
64 **summer recreational program for children no younger than five years**
65 **of age, and providing no child care for children younger than five years**
66 **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
2 operate a child-care facility for children, or to advertise or hold himself or herself
3 out as being able to perform any of the services as defined in section 210.201,
4 without having in effect a written license granted by the department of health
5 and senior services; except that nothing in sections 210.203 to 210.245 shall apply
6 to:

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

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

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

21 (4) Any [child-care facility maintained or operated under the exclusive
22 control of a religious organization. When a nonreligious organization, having as

23 its principal purpose the provision of child-care services, enters into an
24 arrangement with a religious organization for the maintenance or operation of a
25 child-care facility, the facility is not under the exclusive control of the religious
26 organization] **summer camp, that is conducted in good faith primarily to**
27 **provide recreation;**

28 (5) Any [residential facility or day program licensed by the department
29 of mental health pursuant to sections 630.705 to 630.760 which provides care,
30 treatment and habilitation exclusively to children who have a primary diagnosis
31 of mental disorder, mental illness, intellectual disability or developmental
32 disability, as defined in section 630.005] **hospital, as such term is defined in**
33 **section 197.020, sanitarium, or home that is conducted in good faith**
34 **primarily to provide medical treatment, nursing, or convalescent care**
35 **to children; and**

36 (6) Any [nursery school] **residential facility or day program licensed**
37 **by the department of mental health pursuant to sections 630.705 to**
38 **630.760 that provides care, treatment, and habilitation exclusively to**
39 **children who have a primary diagnosis of mental disorder, mental**
40 **illness, intellectual disability, or developmental disability, as such**
41 **terms are defined in section 630.005;**

42 (7) Any school system;

43 (8) Any Montessori school;

44 (9) Any business that operates a child care program for the
45 convenience of its customers, if the following conditions are met:

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

48 (b) Customers remain on site while their children are being
49 cared for by the business establishment;

50 (10) Any home school, as defined in section 167.031;

51 (11) Any religious organization, academic preschool, or
52 kindergarten for four- and five-year-old children;

53 (12) Any weekly Sunday or Sabbath school, vacation Bible school,
54 or child care made available while the parents or guardians are
55 attending worship services or other meetings and activities conducted
56 or sponsored by a religious organization;

57 (13) Any neighborhood youth development programs pursuant to
58 section 210.278;

59 (14) Any religious organization elementary or secondary school;

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

65 **(16) Any nursery school; and**

66 **(17) Any child-care facility maintained or operated under the**
67 **exclusive control of a religious organization. If a nonreligious**
68 **organization, having as its principal purpose the provision of child care**
69 **services, enters into an arrangement with a religious organization for**
70 **the maintenance or operation of a child-care facility, then the facility**
71 **is not under the exclusive control of the religious organization.**

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

80 3. Any child care facility not exempt from licensure shall disclose the
81 licensure status of the facility to the parents or guardians of children for which
82 the facility provides care. No child care facility exempt from licensure shall
83 represent to any parent or guardian of children for which the facility provides
84 care that the facility is licensed when such facility is in fact not licensed. A
85 parent or guardian shall sign a written notice indicating he or she is aware of the
86 licensure status of the facility. The facility shall keep a copy of this signed
87 written notice on file. All child care facilities shall provide the parent or
88 guardian enrolling a child in the facility with a written explanation of the
89 disciplinary philosophy and policies of the child care facility.

210.221. 1. The department of health and senior services shall have the
2 following powers and duties:

3 (1) After inspection, to grant licenses to persons to operate child-care
4 facilities if satisfied as to the good character and intent of the applicant and that
5 such applicant is qualified and equipped to render care or service conducive to the
6 welfare of children[, and to renew the same when expired. No license shall be

7 granted for a term exceeding two years]. Each license shall specify the kind of
8 child-care services the licensee is authorized to perform, the number of children
9 that can be received or maintained, and their ages and sex;

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

17 (3) To promulgate and issue rules and regulations the department deems
18 necessary or proper in order to establish standards of service and care to be
19 rendered by such licensees to children. No rule or regulation promulgated by the
20 division shall in any manner restrict or interfere with any religious instruction,
21 philosophies or ministries provided by the facility and shall not apply to facilities
22 operated by religious organizations which are not required to be licensed;

23 (4) To approve training concerning the safe sleep recommendations of the
24 American Academy of Pediatrics in accordance with section 210.223; and

25 (5) To determine what records shall be kept by such persons and the form
26 thereof, and the methods to be used in keeping such records, and to require
27 reports to be made to the department at regular intervals.

28 2. Any child-care facility may request a variance from a rule or regulation
29 promulgated pursuant to this section. The request for a variance shall be made
30 in writing to the department of health and senior services and shall include the
31 reasons the facility is requesting the variance. The department shall approve any
32 variance request that does not endanger the health or safety of the children
33 served by the facility. The burden of proof at any appeal of a disapproval of a
34 variance application shall be with the department of health and senior
35 services. Local inspectors may grant a variance, subject to approval by the
36 department of health and senior services.

37 3. The department shall deny, suspend, place on probation or revoke a
38 license if it receives official written notice that the local governing body has found
39 that license is prohibited by any local law related to the health and safety of
40 children. The department may deny an application for a license if the
41 department determines that a home or other place in which an applicant would
42 operate a child-care facility is located within one thousand feet of any location

43 where a person required to register under sections 589.400 to 589.425 either
44 resides, as that term is defined in subsection 3 of section 566.147, or regularly
45 receives treatment or services, excluding any treatment or services delivered in
46 a hospital, as that term is defined in section 197.020, or in facilities owned or
47 operated by a hospital system. The department may, after inspection, find the
48 licensure, denial of licensure, suspension or revocation to be in the best interest
49 of the state.

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

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

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

13 3. Any child-care facility may request a variance from a rule or regulation
14 promulgated pursuant to this section. The request for a variance shall be made
15 in writing to the department of health and senior services and shall include the
16 reasons the facility is requesting the variance. The department shall approve any

17 variance request that does not endanger the health or safety of the children
18 served by the facility. The burden of proof at any appeal of a disapproval of a
19 variance application shall be with the department of health and senior
20 services. Local inspectors may grant a variance, subject to approval by the
21 department.

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

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

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

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

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

9 (1) Notification that the child-care facility is exempt as a religious
10 organization from state licensing and therefore not inspected or supervised by the

11 department of health and senior services other than as provided herein and that
12 the facility has been inspected by those designated in section 210.252 and is
13 complying with the fire, health and sanitation requirements of sections 210.252
14 to 210.257;

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

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

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

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

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

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

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

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

13 (2) "Child care provider", a person licensed, regulated, or
14 registered to provide child care within the state of Missouri, including
15 members, managers, shareholders, directors, and officers of any entity

16 **licensed, regulated, or registered to provide child care within the state**
17 **of Missouri;**

18 **(3) "Criminal background check":**

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

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

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

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

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

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

30 **(4) "Designated department", the department to which criminal**
31 **background check results are sent; the department of health and senior**
32 **services for child care staff members or prospective child care staff**
33 **members of licensed child care facilities and the department of social**
34 **services for child care staff members or prospective child care staff**
35 **members of license-exempt child care facilities or unlicensed child care**
36 **facilities registered with the department of social services pursuant to**
37 **section 210.027;**

38 **(5) "Qualifying result" or "qualifying criminal background check",**
39 **a finding that a child care staff member or prospective child care staff**
40 **member is eligible for employment or presence in a child care setting.**

41 2. (1) Prior to the employment or presence of a child care staff member
42 in a [family child care home, group child care home, child care center, or
43 license-exempt] **licensed** child care facility, the child care provider shall request
44 the results of a criminal background check for such child care staff member from
45 the department of health and senior services.

46 (2) **Prior to the employment or presence of a child care staff**
47 **member in a license-exempt child care facility or an unlicensed,**
48 **registered child care facility, the child care provider shall request the**
49 **results of a criminal background check for such child care staff**
50 **member from the department of social services.**

51 **(3) A prospective child care staff member may begin work for a child care**

52 provider after the [criminal background check has been requested] **qualifying**
53 **result of either a Federal Bureau of Investigation fingerprint check or**
54 **a search of the Missouri criminal registry or repository with the use of**
55 **fingerprints has been received** from the **designated** department; however,
56 pending completion of the criminal background check, the prospective child care
57 staff member shall be supervised at all times by another child care staff member
58 who received a qualifying result on the criminal background check within the
59 past five years.

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

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

72 4. [Except as otherwise provided in subsection 2 of this section,] Upon
73 completion of the criminal background check, any child care staff member or
74 prospective child care staff member shall be ineligible for employment or presence
75 at a [family child care home, a group child care home, a licensed child care
76 center, or a license-exempt] **licensed, licensed-exempt, or unlicensed,**
77 **registered** child care facility, **and shall be disqualified from receipt of**
78 **state or federal funds for providing child care services either by direct**
79 **payment or through reimbursement to an individual who receives child**
80 **care benefits** if such person:

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

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

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

87 (4) [Has a finding] **Is listed as a perpetrator** of child abuse or neglect

88 under [section 210.145 or 210.152] **sections 210.109 to 210.183** or any other
89 finding of child abuse or neglect based on any other state's registry or database;
90 **or**

91 (5) Has [been convicted of a felony consisting of:

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

93 (b) Child abuse or neglect;

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

95 (d) Spousal abuse;

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

97 (f) Kidnapping;

98 (g) Arson;

99 (h) Physical assault or battery; or

100 (i) Subject to subsection 5 of this section, a drug-related offense committed
101 during the preceding five years;

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

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

107 Adult] **pled guilty or nolo contendere or been found guilty of:**

108 (a) **Any felony for an offense against the person under chapter**
109 **565;**

110 (b) **Any other offense against the person involving the**
111 **endangerment of a child as prescribed by law;**

112 (c) **Any misdemeanor or felony for a sexual offense under**
113 **chapter 566;**

114 (d) **Any misdemeanor or felony for an offense against the family**
115 **under chapter 568;**

116 (e) **Burglary in the first degree under section 569.160;**

117 (f) **Any misdemeanor or felony for robbery under chapter 570;**

118 (g) **Any misdemeanor or felony for pornography or related**
119 **offenses under chapter 573;**

120 (h) **Any felony for arson under chapter 569;**

121 (i) **Any felony for armed criminal action under section 571.015;**
122 **unlawful use of a weapon under section 571.030; unlawful possession of**
123 **a firearm under section 571.070; or the unlawful possession of an**

124 **explosive under section 571.072;**

125 **(j) Any felony for making a terrorist threat under sections**
126 **574.115, 574.120, or 574.125;**

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

129 **(l) Any similar crime in any federal, state, municipal or other**
130 **court of similar jurisdiction of which the director of the designated**
131 **department has knowledge.**

132 **5. Household members seventeen years of age and older prior to**
133 **January 1, 2021, or eighteen years of age or older on or after January**
134 **1, 2021, or household members less than seventeen years of age prior**
135 **to January 1, 2021, or less than eighteen years of age on or after**
136 **January 1, 2021, and who have been certified as an adult for the**
137 **commission of a crime, in a family child care home shall be ineligible to**
138 **maintain a presence at a facility licensed as a family child care home during**
139 **child care hours if any one or more of the provisions of [this] subsection 4 of**
140 **this section applies to them.**

141 **6. A child care provider may be disqualified from receipt of state**
142 **or federal funds for providing child care services either by direct**
143 **payment or through reimbursement to an individual who receives child**
144 **care benefits if such person, or any person over seventeen years of age**
145 **or older prior to January 1, 2021, or eighteen years of age or older on**
146 **or after January 1, 2021, residing in the household where child care is**
147 **being provided, excluding child care provided in the child's home, has**
148 **been refused licensure or has experienced licensure suspension or**
149 **revocation pursuant to sections 210.221 or 210.496.**

150 **[5.] 7. A child care provider shall not be required to submit a request for**
151 **a criminal background check under this section for a child care staff member if:**

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

156 **(2) The department of health and senior services **or the department of****
157 **social services provided to the first provider a qualifying criminal background**
158 **check result, consistent with this section, for the staff member; and**

159 **(3) The staff member is employed by a child care provider within Missouri**

160 or has been separated from employment from a child care provider within
161 Missouri for a period of not more than one hundred eighty consecutive days.

162 [6.] 8. (1) The department [of health and senior services shall process]
163 **processing** the request for a criminal background check for any prospective child
164 care staff member or child care staff member **shall do so** as expeditiously as
165 possible, but not to exceed forty-five days after the date on which the provider
166 submitted the request.

167 (2) The department shall provide the results of the criminal background
168 check to the child care provider in a statement that indicates whether the
169 prospective child care staff member or child care staff member is eligible or
170 ineligible for employment or presence at the child care facility **or receipt of**
171 **state or federal funds for providing child care services either by direct**
172 **payment or through reimbursement to an individual who receives child**
173 **care benefits.** The department shall not reveal to the child care provider any
174 disqualifying crime or other related information regarding the prospective child
175 care staff member or child care staff member.

176 (3) If such prospective child care staff member or child care staff member
177 is ineligible for employment or presence at the child care facility, the department
178 shall, when providing the results of criminal background check, include
179 information related to each disqualifying crime or other related information, in
180 a report to such prospective child care staff member or child care staff member,
181 along with information regarding the opportunity to appeal under subsection [7]
182 **9** of this section.

183 (4) **If a prospective child care provider or child care provider**
184 **has been denied state or federal funds by the department of social**
185 **services for providing child care, he or she may appeal such denial to**
186 **the department of social services.**

187 [7.] 9. (1) The prospective child care staff member or child care staff
188 member may appeal **a finding of ineligibility for employment or presence**
189 **at a child care facility** in writing to the department **that made the**
190 **determination of ineligibility** to challenge the accuracy or completeness of the
191 information contained in his or her criminal background check[, or] **if his or her**
192 **finding of ineligibility is based on one or more of the following offenses:**

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

194 (b) **Felony child abuse or neglect;**

195 (c) **A felony crime against children, including child pornography;**

- 196 **(d) Felony spousal abuse;**
197 **(e) A felony crime involving rape or sexual assault;**
198 **(f) Felony kidnapping;**
199 **(g) Felony arson;**
200 **(h) Felony physical assault or battery;**
201 **(i) A violent misdemeanor offense committed as an adult against**
202 **a child, including the offense of child abuse, child endangerment, or**
203 **sexual assault, or a misdemeanor offense involving child pornography;**
204 **or**
205 **(j) Any similar offense in any federal, state, municipal, or other**
206 **court.**
- 207 **(2) If a finding of ineligibility is based on an offense not**
208 **provided for in subdivision (1) of this subsection, the prospective child**
209 **care staff member or child care staff member may appeal to challenge**
210 **the accuracy or completeness of the information contained in his or her**
211 **criminal background check or to offer information mitigating the results and**
212 **explaining why an eligibility exception should be granted. [The department of**
213 **health and senior services shall attempt to verify the accuracy of the information**
214 **challenged by the individual, including making an effort to locate any missing**
215 **disposition information related to the disqualifying crime.]**
- 216 **(3) The appeal shall be filed with the department that made the**
217 **determination within ten days from the [delivery or] mailing of the notice of**
218 **ineligibility. [The department shall make a decision on the appeal in a timely**
219 **manner.] Such department shall attempt to verify the accuracy of the**
220 **information challenged by the individual, including making an effort**
221 **to locate any missing disposition information related to the**
222 **disqualifying offense. After the department verifies the accuracy of the**
223 **information challenged by the individual, the department shall forward**
224 **the appeal to the child care background screening review committee**
225 **established in subdivision (4) of this subsection. The child care**
226 **background screening review committee shall make a final decision on**
227 **the written appeal, and such decision shall be made in a timely**
228 **manner. Such decision shall be considered a noncontested final agency**
229 **decision by the department that made the determination of ineligibility**
230 **under this section and appealable under section 536.150. Such decision**
231 **shall be appealed within thirty days of the mailing of the decision.**
- 232 **(4) There is hereby established a "Child Care Background**

233 **Screening Review Committee", which shall consist of the directors of**
234 **the department of health and senior services and the department of**
235 **social services or the directors' designee or designees.**

236 **(5) Any decision by the child care background screening review**
237 **committee to grant an eligibility exception shall only be made upon the**
238 **approval of all committee members.**

239 **10. The department of health and senior services and the**
240 **department of social services are authorized to enter into any**
241 **agreements necessary to facilitate the sharing of information between**
242 **the departments for the enforcement of this section, including, but not**
243 **limited to, the results of the criminal background check or any of its**
244 **individual components.**

245 **11. Nothing in this section shall prohibit either department from**
246 **requiring more frequent checks of the family care safety registry**
247 **established in section 210.903, or the central registry for child abuse**
248 **established in section 210.109, in order to determine eligibility for**
249 **employment or presence at the child care facility or receipt of state or**
250 **federal funds for providing child care services either by direct payment**
251 **or through reimbursement to an individual who receives child care**
252 **benefits.**

253 **[8.] 12. The department of health and senior services and the**
254 **department of social services may each adopt emergency rules to implement**
255 **the requirements of this section. Any rule or portion of a rule, as that term is**
256 **defined in section 536.010, that is created under the authority delegated in this**
257 **section shall become effective only if it complies with and is subject to all of the**
258 **provisions of chapter 536 and, if applicable, section 536.028. This section and**
259 **chapter 536 are nonseverable, and if any of the powers vested with the general**
260 **assembly pursuant to chapter 536 to review, to delay the effective date, or to**
261 **disapprove and annul a rule are subsequently held unconstitutional, then the**
262 **grant of rulemaking authority and any rule proposed or adopted after August 28,**
263 **2018, shall be invalid and void.**

264 **[9. (1)] 13. The provisions of this section shall not apply to any child**
265 **care facility, as defined in section 210.201, maintained or operated under the**
266 **exclusive control of a religious organization, as described in subdivision [(4)] (17)**
267 **of subsection 1 of section 210.211, unless such facility is a recipient of federal**
268 **funds for providing care for children, except for federal funds for those programs**

269 that meet the requirements for participation in the Child and Adult Care Food
270 Program under 42 U.S.C. Section 1766.

271 [(2) The provisions of this section, and any rules or regulations
272 promulgated under this section, shall expire if 42 U.S.C. Section 9858f, as enacted
273 by the Child Care and Development Block Grant (CCDBG) Act of 2014, and 45
274 CFR 98.43 are repealed or if Missouri no longer receives federal funds from the
275 CCDBG.]

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

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

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

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

29 (3) Upon initial application, require the applicant to submit

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

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

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

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

51 (3) Has pled guilty or nolo contendere to or been found
52 guilty of any felony for an offense against the person as defined by
53 chapter 565, or any other offense against the person involving the
54 endangerment of a child as prescribed by law; of any misdemeanor
55 or felony for a sexual offense as defined by chapter 566; of any
56 misdemeanor or felony for an offense against the family as defined
57 in chapter 568, with the exception of the sale of fireworks, as
58 defined in section 320.110, to a child under the age of eighteen; of
59 any misdemeanor or felony for pornography or related offense as
60 defined by chapter 573; or of any similar crime in any federal,
61 state, municipal or other court of similar jurisdiction of which the
62 director has knowledge or any offenses or reports which will
63 disqualify an applicant from receiving state or federal funds.

64 4. An applicant shall be given an opportunity by the
65 division to offer any extenuating or mitigating circumstances

66 regarding the findings, refusals or violations against such applicant
67 or any person over the age of seventeen or less than seventeen who
68 is living in the applicant's home listed in subsection 2 of this
69 section. Such extenuating and mitigating circumstances may be
70 considered by the division in its determination of whether to permit
71 such applicant to receive state or federal funds for providing child
72 care in the home.

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

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

81 7. Any rule or portion of a rule, as that term is defined in
82 section 536.010, that is created under the authority delegated in
83 this section shall become effective only if it complies with and is
84 subject to all of the provisions of chapter 536 and, if applicable,
85 section 536.028. All rulemaking authority delegated prior to
86 August 28, 1999, is of no force and effect and repealed. Nothing in
87 this section shall be interpreted to repeal or affect the validity of
88 any rule filed or adopted prior to August 28, 1999, if it fully
89 complied with all applicable provisions of law. This section and
90 chapter 536 are nonseverable and if any of the powers vested with
91 the general assembly pursuant to chapter 536 to review, to delay
92 the effective date or to disapprove and annul a rule are
93 subsequently held unconstitutional, then the grant of rulemaking
94 authority and any rule proposed or adopted after August 28, 1999,
95 shall be invalid and void.

96 8. (1) The provisions of subsection 1 of this section shall
97 not apply to any child care facility, as defined in section 210.201,
98 maintained or operated under the exclusive control of a religious
99 organization, as described in subdivision (4) of subsection 1 of
100 section 210.211, unless such facility is a recipient of federal funds
101 for providing care for children, except for federal funds for those

102 programs that meet the requirements for participation in the Child
103 and Adult Care Food Program under 42 U.S.C. Section 1766.

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

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