

FIRST REGULAR SESSION

SENATE BILL NO. 339

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 24, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1778S.011

AN ACT

To repeal sections 210.211 and 210.245, RSMo, and to enact in lieu thereof four new sections relating to child care, with a penalty provision.

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

Section A. Sections 210.211 and 210.245, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 210.209, 210.211,
3 210.245, and 210.265, to read as follows:

**210.209. The amendments to sections 210.211 and 210.245, as
2 enacted by the ninety-sixth general assembly, first regular session,
3 shall be known and may be cited as "Nathan's Law".**

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 four or fewer children. For purposes of
8 this subdivision, children who are related by blood, marriage or adoption to such
9 person within the third degree shall [not be considered] **be included** in the total
10 number of children being cared for; **except that, children of such person
11 who live in the home and attend school for a full school day shall not
12 be included in the total number of children cared for;**

13 (2) Any person who has been duly appointed by a court of competent
14 jurisdiction the guardian of the person of the child or children, or the person who
15 has legal custody of the child or children;

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

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

20 (4) Any graded boarding school, summer camp, hospital, sanitarium or
21 home which is conducted in good faith primarily to provide education, recreation,
22 medical treatment, or nursing or convalescent care for children;

23 (5) Any child-care facility maintained or operated under the exclusive
24 control of a religious organization. When a nonreligious organization, having as
25 its principal purpose the provision of child-care services, enters into an
26 arrangement with a religious organization for the maintenance or operation of a
27 child-care facility, the facility is not under the exclusive control of the religious
28 organization;

29 (6) Any residential facility or day program licensed by the department of
30 mental health pursuant to sections 630.705 to 630.760 which provides care,
31 treatment and habilitation exclusively to children who have a primary diagnosis
32 of mental disorder, mental illness, mental retardation or developmental disability,
33 as defined in section 630.005; and

34 (7) Any nursery school.

35 2. Notwithstanding the provisions of subsection 1 of this section, no
36 child-care facility shall be exempt from licensure if such facility receives any state
37 or federal funds for providing care for children, except for federal funds for those
38 programs which meet the requirements for participation in the Child and Adult
39 Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care
40 pursuant to sections 210.201 to 210.257 shall not be construed to be funds
41 received by a person or facility listed in subdivisions (1) and (5) of subsection 1
42 of this section.

43 **3. Any child-care facility exempt from licensure shall disclose the**
44 **licensure exempt status of the facility to the parents or guardians of**
45 **children for which the facility provides care.**

210.245. 1. Any person who violates any provision of sections 210.201 to
2 210.245, or who for such person or for any other person makes materially false
3 statements in order to obtain a license or the renewal thereof pursuant to sections
4 210.201 to 210.245, [shall be] is guilty of an infraction for the first offense and
5 shall be assessed a fine not to exceed two hundred dollars and [shall be] is guilty
6 of a class A misdemeanor **and shall be assessed a fine of two hundred**

7 **dollars per day, not to exceed a total of ten thousand dollars** for
8 subsequent offenses. In case such guilty person is a corporation, association,
9 institution or society, the officers thereof who participate in such misdemeanor
10 shall be subject to the penalties provided by law.

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

27 3. The department of health and senior services may issue letters of
28 censure or warning without formal notice or hearing. Additionally, the
29 department of health and senior services may place a licensee on probation
30 pursuant to chapter 621.

31 4. The department of health and senior services may suspend any license
32 simultaneously with the notice of the proposed action to be taken in subsection
33 2 of this section, if the department of health and senior services finds that there
34 is a threat of imminent bodily harm to the children in care. The notice of
35 suspension shall include the basis of the suspension and the appeal rights of the
36 licensee pursuant to this section. The licensee may appeal the decision to
37 suspend the license to the department of health and senior services. The appeal
38 shall be filed within ten days from the delivery or mailing by certified mail of the
39 notice of appeal. A hearing shall be conducted by the department of health and
40 senior services within ten days from the date the appeal is filed. The suspension
41 shall continue in effect until the conclusion of the proceedings, including review
42 thereof, unless sooner withdrawn by the department of health and senior services,

43 dissolved by a court of competent jurisdiction or stayed by the administrative
44 hearing commission. Any person aggrieved by a final decision of the department
45 made pursuant to this section shall be entitled to judicial review in accordance
46 with chapter 536.

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

57 6. In cases of imminent bodily harm to children in the care of a child-care
58 facility, the department may file suit in the circuit court of the county in which
59 the child-care facility is located for injunctive relief, which may include removing
60 the children from the facility, overseeing the operation of the facility or closing
61 the facility.

62 **7. The department of health and senior services may immediately**
63 **close any illegally operating unlicensed child-care facility. The**
64 **prosecuting attorney of the county where such illegal child-care facility**
65 **is located may file suit for a permanent order preventing the operation**
66 **of a child-care facility. The order shall remain in effect until such a**
67 **time as the court determines that the child-care facility is in**
68 **compliance with all licensure requirements. Any person who operates**
69 **an illegal unlicensed child-care facility is subject to the penalties set**
70 **forth in subsection 1 of this section.**

210.265. 1. This section shall be known and may be cited as "Sam
2 Pratt's Law".

3 2. If the department of health and senior services is notified or
4 determines that a child care provider exempt from the licensure
5 requirements of sections 210.201 to 210.211 has any pending criminal
6 charges against such child care provider, the department is authorized
7 to conduct an investigation regarding such child care provider in the
8 same manner as such an investigation would occur for a licensed child

9 care provider.

10 3. If the department determines that the pending criminal
11 charges against a child care provider exempt from the licensure
12 requirements of sections 210.201 and 210.211 would similarly result in
13 the sanction of the license of a licensed child care provider based on
14 such pending criminal charges, the department shall notify such child
15 care provider that such provider is prohibited from continuing to
16 provide child care services in this state pending a resolution of such
17 criminal charges in favor of such child care provider.

18 4. Any child care provider exempt from the licensure
19 requirements of sections 210.201 and 210.211 who continues to provide
20 child care services following notification by the department to cease
21 such child care services is guilty of a class B misdemeanor. Any second
22 or subsequent violation of this section is a class A misdemeanor.

23 5. The department shall report any known violations of this
24 section to the appropriate prosecuting attorney's office or law
25 enforcement agency.

Bill ✓

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