

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 533
98TH GENERAL ASSEMBLY

2366H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.003 and 210.221, RSMo, and to enact in lieu thereof four new sections relating to the protection of children.

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

Section A. Sections 210.003 and 210.221, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 192.380, 210.003, 210.221, and 210.223, to read as follows:

192.380. 1. For purposes of this section, the following terms shall mean:

(1) "Birthing center", any hospital as defined under section 197.020 with more than one licensed obstetric bed or a neonatal intensive care unit or a hospital operated by a state university or a birthing center staffed by certified professional midwives or certified nurse midwives;

(2) "Department", the department of health and senior services;

(3) "High-risk pregnancy", a pregnancy in which the mother or baby is at increased risk for poor health or complications during pregnancy or childbirth;

(4) "Perinatal regional center", a comprehensive maternal and newborn service for women who have been assessed as high-risk patients or are bearing high-risk babies, as determined by a standardized risk assessment tool, who will require the highest level of specialized care. Centers may be comprised of more than one licensed facility.

2. There is hereby created the "Perinatal Advisory Council" which shall be composed of representatives from the following organizations who shall focus on and have experience in perinatal care or infant mortality, one of which shall be elected chair by a majority of the members, to be appointed by the governor with the advice and consent of the senate:

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.

- 18 **(1) One practicing physician who is a fellow from the Missouri section of the**
19 **American Congress of Obstetricians and Gynecologists;**
- 20 **(2) One practicing physician from the Missouri chapter of the American Academy**
21 **of Pediatrics section of Perinatal Pediatrics;**
- 22 **(3) One representative from the March of Dimes;**
- 23 **(4) One representative from the National Association for Nurse Practitioners in**
24 **Women's Health;**
- 25 **(5) One representative from the Missouri affiliate of the American College of**
26 **Nurse-Midwives;**
- 27 **(6) One representative from the Missouri section of the Association of Women's**
28 **Health, Obstetric and Neonatal Nurses or the National Association of Neonatal Nurses;**
- 29 **(7) One practicing physician from the Missouri Academy of Family Physicians;**
- 30 **(8) One representative from a community coalition engaged in infant mortality**
31 **prevention;**
- 32 **(9) Four representatives from regional Missouri hospitals with one representative**
33 **from a hospital with perinatal care equivalent to each level;**
- 34 **(10) One practicing physician from the Society for Maternal-Fetal Medicine;**
- 35 **(11) Three active private practice physicians specializing in obstetrics and**
36 **gynecology, family medicine practicing obstetrics, or pediatrics, at least one of which shall**
37 **be in active practice in a rural area; and**
- 38 **(12) One representative from the show-me extension for community health care**
39 **outcomes (ECHO) program.**
- 40
- 41 **The director of the department of health and senior services and the director of the**
42 **department of social services or their designees shall serve as ex officio members of the**
43 **council and shall not have a vote. The department shall provide necessary staffing support**
44 **to the council.**
- 45 **3. After seeking broad public and stakeholder input, the perinatal advisory council**
46 **shall make recommendations for the division of the state into neonatal and maternal care**
47 **regions. When making such recommendations the council shall consider:**
- 48 **(1) Geographic proximity of facilities;**
- 49 **(2) Hospital systems;**
- 50 **(3) Insurance networks;**
- 51 **(4) Consistent geographic boundaries for neonatal and maternal care regions,**
52 **where appropriate; and**

53 **(5) Existing referral networks and referral patterns to appropriate birthing**
54 **facilities.**

55 **4. The perinatal advisory council shall establish criteria for levels of birthing center**
56 **care including regional perinatal centers. The levels developed under this section shall be**
57 **based upon:**

58 **(1) Evidence and best practices as outlined by the most current version of the**
59 **"Levels of Neonatal Care" prepared by the American Academy of Pediatrics;**

60 **(2) The most current published version of the "Levels of Maternal Care" developed**
61 **by the American Congress of Obstetricians and Gynecologists and the Society for**
62 **Maternal-Fetal Medicine; and**

63 **(3) Necessary variance when considering the geographic and varied needs of**
64 **citizens of this state.**

65 **5. Nothing in this section shall be construed in any way to modify or expand the**
66 **licensure of any health care professional.**

67 **6. Nothing in this section shall be construed in any way to require a patient be**
68 **transferred to a different facility.**

69 **7. The department shall promulgate rules to implement the provisions of this**
70 **section no later than January 1, 2017. Such rules shall be limited to those necessary for the**
71 **establishment of levels of neonatal and maternal birthing center care under subsection 4**
72 **of this section and the division of the state into neonatal and maternal care regions under**
73 **subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section**
74 **536.010, that is created under the authority delegated in this section shall become effective**
75 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
76 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
77 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
78 **the effective date, or to disapprove and annul a rule are subsequently held**
79 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
80 **after August 28, 2015, shall be invalid and void.**

81 **8. Beginning January 1, 2017, hospital applications for license shall include the**
82 **appropriate level of maternal care designation and neonatal care designation as**
83 **determined by the perinatal advisory council under subsection 4 of this section.**

84 **9. Beginning January 1, 2017, any hospital operated by a state university shall**
85 **report, as requested by the department, the appropriate level of maternal care designation**
86 **and neonatal care designation as determined by the perinatal advisory council under**
87 **subsection 4 of this section.**

88 **10. Nothing in this section shall be construed to impose liability for referral or**
89 **failure to refer in accordance with the recommendations of the perinatal advisory council.**

90 **11. The department may partner with appropriate nationally recognized nonprofit**
91 **organizations with demonstrated expertise in maternal and neonatal standards of care to**
92 **administer the provisions of this section.**

93 **12. The criteria for levels of birthing care developed under subsection 4 of this**
94 **section shall not include pregnancy termination, or counseling or referral for pregnancy**
95 **termination.**

96 **13. All certified professional midwives may consult with and participate in**
97 **educational opportunities through the regional perinatal center.**

210.003. 1. No child shall be permitted to enroll in or attend any public, private or
2 parochial day care center, preschool or nursery school caring for ten or more children unless such
3 child has been adequately immunized against vaccine-preventable childhood illnesses specified
4 by the department of health and senior services in accordance with recommendations of the
5 Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall
6 provide satisfactory evidence of the required immunizations.

7 2. A child who has not completed all immunizations appropriate for his age may enroll,
8 if:

9 (1) Satisfactory evidence is produced that such child has begun the process of
10 immunization. The child may continue to attend as long as the immunization process is being
11 accomplished according to the ACIP/Missouri department of health and senior services
12 recommended schedule; or

13 (2) The parent or guardian has signed and placed on file with the day care administrator
14 a statement of exemption which may be either of the following:

15 (a) A medical exemption, by which a child shall be exempted from the requirements of
16 this section upon certification by a licensed physician that such immunization would seriously
17 endanger the child's health or life; or

18 (b) A parent or guardian exemption, by which a child shall be exempted from the
19 requirements of this section if one parent or guardian files a written objection to immunization
20 with the day care administrator. Exemptions shall be accepted by the day care administrator
21 when the necessary information as determined by the department of health and senior services
22 is filed with the day care administrator by the parent or guardian. Exemption forms shall be
23 provided by the department of health and senior services.

24 3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease
25 within a particular facility, the administrator of the facility shall follow the control measures
26 instituted by the local health authority or the department of health and senior services or both the

27 local health authority and the department of health and senior services, as established in Rule 19
28 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

29 4. The administrator of each public, private or parochial day care center, preschool or
30 nursery school shall cause to be prepared a record of immunization of every child enrolled in or
31 attending a facility under his **or her** jurisdiction. An annual summary report shall be made by
32 January fifteenth showing the immunization status of each child enrolled, using forms provided
33 for this purpose by the department of health and senior services. The immunization records shall
34 be available for review by department of health and senior services personnel upon request.

35 5. For purposes of this section, satisfactory evidence of immunization means a statement,
36 certificate or record from a physician or other recognized health facility or personnel, stating that
37 the required immunizations have been given to the child and verifying the type of vaccine and
38 the month, day and year of administration.

39 6. Nothing in this section shall preclude any political subdivision from adopting more
40 stringent rules regarding the immunization of preschool children.

41 **7. All public, private, and parochial day care centers, preschools, and nursery**
42 **schools shall notify the parent or guardian of each child at the time of initial enrollment**
43 **in or attendance at the facility that the parent or guardian may request notice of whether**
44 **there are children currently enrolled in or attending the facility for whom an immunization**
45 **exemption has been filed. Any public, private, or parochial day care center, preschool, or**
46 **nursery school shall notify the parent or guardian of a child enrolled in or attending the**
47 **facility, upon request, of whether there are children currently enrolled in or attending the**
48 **facility for whom an immunization exemption has been filed.**

210.221. 1. The department of health and senior services shall have the following
2 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 qualified
5 and equipped to render care or service conducive to the welfare of children, and to renew the
6 same when expired. No license shall be granted for a term exceeding two years. Each license
7 shall specify the kind of child-care services the licensee is authorized to perform, the number of
8 children that can be received or maintained, and their ages and sex;

9 (2) To inspect the conditions of the homes and other places in which the applicant
10 operates a child-care facility, inspect their books and records, premises and children being
11 served, examine their officers and agents, deny, suspend, place on probation or revoke the license
12 of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and
13 regulations made by the department of health and senior services. The director also may revoke
14 or suspend a license 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 shall in any manner restrict or
18 interfere with any religious instruction, philosophies or ministries provided by the facility and
19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed; [and]

21 (4) **To approve training concerning the safe sleep recommendations of the**
22 **American 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 promulgated
27 pursuant to this section. The request for a variance shall be made in writing to the department
28 of health and senior services and shall include the reasons the facility is requesting the variance.
29 The department shall approve any variance request that does not endanger the health or safety
30 of the children served by the facility. The burden of proof at any appeal of a disapproval of a
31 variance application shall be with the department of health and senior services. Local inspectors
32 may grant a variance, subject to approval by the department of health and senior services.

33 3. The department shall deny, suspend, place on probation or revoke a license if it
34 receives official written notice that the local governing body has found that license is prohibited
35 by any local law related to the health and safety of children. The department may, after
36 inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
37 interest of the state.

38 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
39 under the authority delegated in sections 210.201 to 210.245 shall become effective only if it
40 complies with and is subject to all of the provisions of chapter 536, and, if applicable, section
41 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
42 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
43 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
44 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
45 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
46 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
47 and any rule proposed or adopted after August 28, 1999, 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
5 risk of sudden infant death syndrome and sudden unexpected infant deaths in children less
6 than one year of age.

7 2. When, in the opinion of the infant's licensed health care provider, an infant
8 requires alternative sleep positions or special sleeping arrangements that differ from those
9 set forth in the most recent sleep recommendations of the American Academy of Pediatrics,
10 the child care facility shall be provided with written instructions, signed by the infant's
11 licensed health care provider, detailing the alternative sleep positions or special sleeping
12 arrangements for such infant. The child care facility shall put the infant to sleep in
13 accordance with such 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
16 year of age that cannot be explained after a thorough investigation has been conducted,
17 including a complete autopsy, an examination of the death scene, and a review of the
18 clinical history;

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

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

28 5. The department shall promulgate rules to implement the provisions of this
29 section. Such rules shall include, but not be limited to:

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

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

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

40 **6. The department may adopt emergency rules to implement the requirements of**
41 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
42 **is created under the authority delegated in 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,**
44 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
45 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
46 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
47 **grant of rulemaking authority and any rule proposed or adopted after the effective date**
48 **of this section shall be invalid and void.**

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