

FIRST REGULAR SESSION

# SENATE BILL NO. 336

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Read 1st time February 4, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0242S.07I

## AN ACT

To repeal sections 208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080, RSMo, and to enact in lieu thereof eight new sections relating to child care facilities, with penalty provisions.

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

Section A. Sections 208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 208.044, 210.025, 210.201, 210.211, 210.245, 210.252, 210.254, and 210.1080, to read as follows:

208.044. 1. The children's division 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 [relative children or] no more than [four] **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 care, as defined in section 208.400, such person may receive day care services from the division if otherwise eligible for such services.

210.025. 1. An applicant child care provider; persons employed by the applicant child care provider for compensation, including contract employees or self-employed individuals; individuals or volunteers whose activities involve the

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

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

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

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

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

23 (3) Upon initial application, require the applicant to submit to  
24 fingerprinting and request a criminal background check of the applicant and any  
25 person over the age of seventeen who is living in the applicant's home pursuant  
26 to section 43.540 and section 210.487, and inquire of the applicant whether any  
27 children less than seventeen years of age residing in the applicant's home have  
28 ever been certified as an adult and convicted of, or pled guilty or nolo contendere  
29 to any crime.

30 3. Except as otherwise provided in subsection 4 of this section, upon  
31 completion of the background checks in subsection 2 of this section, an applicant  
32 shall be denied state or federal funds for providing child care if such applicant,  
33 any person over the age of seventeen who is living in the applicant's home, and  
34 any child less than seventeen years of age who is living in the applicant's home  
35 and who the division has determined has been certified as an adult for the  
36 commission of a crime:

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

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

42 (3) Has pled guilty or nolo contendere to or been found guilty of any felony  
43 for an offense against the person as defined by chapter 565, or any other offense  
44 against the person involving the endangerment of a child as prescribed by law;  
45 of any misdemeanor or felony for a sexual offense as defined by chapter 566; of  
46 any misdemeanor or felony for an offense against the family as defined in chapter  
47 568, with the exception of the sale of fireworks, as defined in section 320.110, to  
48 a child under the age of eighteen; of any misdemeanor or felony for pornography  
49 or related offense as defined by chapter 573; or of any similar crime in any  
50 federal, state, municipal or other court of similar jurisdiction of which the  
51 director has knowledge or any offenses or reports which will disqualify an  
52 applicant from receiving state or federal funds.

53 4. An applicant shall be given an opportunity by the division to offer any  
54 extenuating or mitigating circumstances regarding the findings, refusals or  
55 violations against such applicant or any person over the age of seventeen or less  
56 than seventeen who is living in the applicant's home listed in subsection 2 of this  
57 section. Such extenuating and mitigating circumstances may be considered by  
58 the division in its determination of whether to permit such applicant to receive  
59 state or federal funds for providing child care in the home.

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

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

67 7. Any rule or portion of a rule, as that term is defined in section 536.010,  
68 that is created under the authority delegated in this section shall become effective  
69 only if it complies with and is subject to all of the provisions of chapter 536 and,  
70 if applicable, section 536.028. All rulemaking authority delegated prior to August  
71 28, 1999, is of no force and effect and repealed. Nothing in this section shall be  
72 interpreted to repeal or affect the validity of any rule filed or adopted prior to  
73 August 28, 1999, if it fully complied with all applicable provisions of law. This  
74 section and chapter 536 are nonseverable and if any of the powers vested with the  
75 general assembly pursuant to chapter 536 to review, to delay the effective date

76 or to disapprove and annul a rule are subsequently held unconstitutional, then  
77 the grant of rulemaking authority and any rule proposed or adopted after August  
78 28, 1999, shall be invalid and void.

79 8. (1) The provisions of subsection 1 of this section shall not apply to any  
80 child care facility, as defined in section 210.201, maintained or operated under  
81 the exclusive control of a religious organization, as described in subdivision [(5)]  
82 (4) of subsection 1 of section 210.211, unless such facility is a recipient of federal  
83 funds for providing care for children, except for federal funds for those programs  
84 that meet the requirements for participation in the Child and Adult Care Food  
85 Program under 42 U.S.C. Section 1766.

86 (2) The provisions of subsection 1 of this section, as enacted by the  
87 ninety-ninth general assembly, second regular session, and any rules or  
88 regulations promulgated under such section, shall expire if 42 U.S.C. Section  
89 9858f, as enacted by the Child Care and Development Block Grant (CCDBG) Act  
90 of 2014, and 45 CFR 98.43 are repealed or if Missouri no longer receives federal  
91 funds from the CCDBG.

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

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

4 (2) "Child-care facility", a house or other place conducted or maintained  
5 by any person who advertises or holds himself **or herself** out as providing care  
6 for more than [four] **six** children during the daytime, for compensation or  
7 otherwise, except those operated by a school system or in connection with a  
8 business establishment which provides child care as a convenience for its  
9 customers or its employees for no more than four hours per day, but a child-care  
10 facility shall not include any private or religious organization elementary or  
11 secondary school, a religious organization academic preschool or kindergarten for  
12 four- and five-year-old children, a home school, as defined in section 167.031, a  
13 weekly Sunday or Sabbath school, a vacation Bible school or child care made  
14 available while the parents or guardians are attending worship services or other  
15 meetings and activities conducted or sponsored by a religious organization. If a  
16 facility or program is exempt from licensure based on the school exception  
17 established in this subdivision, such facility or program shall submit  
18 documentation annually to the department to verify its licensure-exempt status;  
19 except that, under no circumstances shall any public or religious organization  
20 elementary or secondary school, a religious organization academic preschool or

21 kindergarten for four- and five-year-old children, a home school, as defined in  
22 section 167.031, a weekly Sunday or Sabbath school, a vacation Bible school or  
23 child care made available while the parents or guardians are attending worship  
24 services or other meetings and activities conducted or sponsored by a religious  
25 organization be required to submit documentation annually to the department to  
26 verify its licensure-exempt status;

27 (3) "Person", any person, firm, corporation, association, institution or  
28 other incorporated or unincorporated organization;

29 (4) "Religious organization", a church, synagogue or mosque; an entity  
30 that has or would qualify for federal tax-exempt status as a nonprofit religious  
31 organization under Section 501(c) of the Internal Revenue Code; or an entity  
32 whose real estate on which the child-care facility is located is exempt from  
33 taxation because it is used for religious purposes.

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]~~ **six** or fewer children, **including**  
8 **a maximum of three children under the age of two, at the same physical**  
9 **address**. For purposes of this subdivision, children who ~~[are related by blood,~~  
10 marriage or adoption to such person within the third degree shall not be  
11 considered in the total number of children being cared for] **live in the**  
12 **caregiver's home and who are eligible for enrollment in a public**  
13 **kindergarten, elementary, or high school shall not be considered in the**  
14 **total number of children being cared for;**

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

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

22 ~~[(4)]~~ **(3)** Any graded boarding school, summer camp, hospital, sanitarium  
23 or home which is conducted in good faith primarily to provide education,

24 recreation, medical treatment, or nursing or convalescent care for children;

25        ~~[(5)]~~ **(4)** Any child-care facility maintained or operated under the  
26 exclusive control of a religious organization. When a nonreligious organization,  
27 having as its principal purpose the provision of child-care services, enters into an  
28 arrangement with a religious organization for the maintenance or operation of a  
29 child-care facility, the facility is not under the exclusive control of the religious  
30 organization;

31        ~~[(6)]~~ **(5)** Any residential facility or day program licensed by the  
32 department of mental health pursuant to sections 630.705 to 630.760 which  
33 provides care, treatment and habilitation exclusively to children who have a  
34 primary diagnosis of mental disorder, mental illness, intellectual disability or  
35 developmental disability, as defined in section 630.005; and

36        ~~[(7)]~~ **(6)** Any nursery school.

37        2. Notwithstanding the provisions of subsection 1 of this section, no  
38 child-care facility shall be exempt from licensure if such facility receives any state  
39 or federal funds for providing care for children, except for federal funds for those  
40 programs which meet the requirements for participation in the Child and Adult  
41 Care Food Program pursuant to 42 U.S.C. Section 1766. Grants to parents for  
42 child care pursuant to sections 210.201 to 210.257 shall not be construed to be  
43 funds received by a person or facility listed in subdivisions (1) and ~~[(5)]~~ **(4)** of  
44 subsection 1 of this section.

45        3. Any child care facility not exempt from licensure shall disclose the  
46 licensure status of the facility to the parents or guardians of children for which  
47 the facility provides care. No child care facility exempt from licensure shall  
48 represent to any parent or guardian of children for which the facility provides  
49 care that the facility is licensed when such facility is in fact not licensed[.

50        4. Any in-home licensed child care facility that is organized as a  
51 corporation, association, firm, partnership, proprietorship, limited liability  
52 company, or any other type of business entity in this state shall qualify for the  
53 exemption for related children for children who are related to the member of the  
54 corporation, association, firm, partnership, proprietorship, limited liability  
55 company, or other type of business entity who is responsible for the daily  
56 operation of the child care facility and who meets the requirements of the child  
57 care provider. If more than one member of the corporation, association, firm,  
58 partnership, proprietorship, limited liability company, or other type of business  
59 entity is responsible for the daily operation of the child care facility, the

60 exemption for related children shall only be granted for children who are related  
61 to one of the members. All child care facilities under this subsection shall  
62 disclose the licensure status of the facility to the parents or guardians of children  
63 for which the facility provides care]. A parent or guardian shall sign a written  
64 notice indicating he or she is aware of the licensure status of the facility. The  
65 facility shall keep a copy of this signed written notice on file. All child care  
66 facilities shall provide the parent or guardian enrolling a child in the facility with  
67 a written explanation of the disciplinary philosophy and policies of the child care  
68 facility.

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 guilty of [an infraction] **a class C misdemeanor**  
5 for the first offense and shall be assessed a fine not to exceed [two] **seven**  
6 hundred **fifty** dollars and shall be guilty of a class A misdemeanor and shall be  
7 assessed a fine of up to two [hundred] **thousand** dollars per day, not to exceed  
8 a total of ten thousand dollars for subsequent offenses. In case such guilty person  
9 is a corporation, association, institution or society, the officers thereof who  
10 participate in such misdemeanor 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, **including an unlicensed, nonexempt facility**, the department may  
59 file suit in the circuit court of the county in which the child-care facility is located  
60 for injunctive relief, which may include removing the children from the facility,  
61 overseeing the operation of the facility or closing the facility. **Failure by the**  
62 **department to file suit under the provisions of this subsection shall not**  
63 **be construed as creating any liability in tort or incurring other**

64 obligations or duties except as otherwise specified.

65           7. Any person who operates an unlicensed, nonexempt child-care  
66 facility in violation of the provisions of sections 210.201 to 210.245 shall  
67 be liable for a civil penalty of not less than seven hundred fifty dollars  
68 and not more than two thousand dollars. The department shall serve  
69 upon such person written notice of the department's findings as to the  
70 child-care facility's unlicensed, nonexempt status, along with  
71 educational materials about Missouri's child-care facility laws and  
72 regulations, how a facility may become exempt or licensed, and  
73 penalties for operating an unlicensed, nonexempt child-care  
74 facility. The notice shall contain a statement that the person shall have  
75 thirty days to become compliant with sections 210.201 to 210.245,  
76 including attaining exempt status or becoming licensed. The person's  
77 failure to do so shall result in a civil action in the circuit court of Cole  
78 County or criminal charges under this section. If, following the receipt  
79 of the written notice, the person operating the child-care facility fails  
80 to become compliant with sections 210.201 to 210.245, the department  
81 may bring a civil action in the circuit court of Cole County against such  
82 person. The department may, but shall not be required to, request that  
83 the attorney general bring the action in place of the department. No  
84 civil action provided by this subsection shall be brought if the criminal  
85 penalties under subsection 1 of this section have been previously  
86 ordered against the person for the same violation. Failure by the  
87 department to file suit under the provisions of this subsection shall not  
88 be construed as creating any liability in tort or incurring other  
89 obligations or duties except as otherwise specified.

90           8. There shall be established the "Family Child Care Provider  
91 Fund" in the state treasury, which shall consist of such funds as  
92 appropriated by the general assembly. The state treasurer shall be  
93 custodian of the fund. In accordance with sections 30.170 and 30.180,  
94 the state treasurer may approve disbursements. The fund shall be a  
95 dedicated fund and moneys in the fund shall be used solely by the  
96 department for the dissemination of information concerning  
97 compliance with child-care facility laws and regulations, including  
98 licensed or exempt status; educational initiatives relating to, inter alia,  
99 child care, safe sleep practices, and child nutrition; and the provision  
100 of financial assistance on the basis of need for family child care homes

101 **to become licensed, as determined by the department and subject to**  
102 **available moneys in the fund. Notwithstanding the provisions of**  
103 **section 33.080 to the contrary, any moneys remaining in the fund at the**  
104 **end of the biennium shall not revert to the credit of the general**  
105 **revenue fund. The state treasurer shall invest moneys in the fund in**  
106 **the same manner as other funds are invested. Any interest and moneys**  
107 **earned on such investments shall be credited to the fund.**

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

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

14 3. Any child-care facility may request a variance from a rule or regulation  
15 promulgated pursuant to this section. The request for a variance shall be made  
16 in writing to the department of health and senior services and shall include the  
17 reasons the facility is requesting the variance. The department shall approve any  
18 variance request that does not endanger the health or safety of the children  
19 served by the facility. The burden of proof at any appeal of a disapproval of a  
20 variance application shall be with the department of health and senior  
21 services. Local inspectors may grant a variance, subject to approval by the  
22 department.

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

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

30 provisions of sections 210.201 to 210.245.

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

          210.254. 1. Child-care facilities operated by religious organizations  
2 pursuant to the exempt status recognized in subdivision ~~[(5)] (4) 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 older;

8 (2) "Criminal background check":

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

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

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

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

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

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

20 2. (1) Prior to the employment or presence of a child care staff member  
21 in a family child care home, group child care home, child care center, or  
22 license-exempt child care facility, the child care provider shall request the results  
23 of a criminal background check for such child care staff member from the  
24 department of health and senior services.

25 (2) A prospective child care staff member may begin work for a child care  
26 provider after the criminal background check has been requested from the  
27 department; however, pending completion of the criminal background check, the

28 prospective child care staff member shall be supervised at all times by another  
29 child care staff member who received a qualifying result on the criminal  
30 background check within the past five years.

31 (3) A family child care home, group child care home, child care center, or  
32 license-exempt child care facility that has child care staff members at the time  
33 this section becomes effective shall request the results of a criminal background  
34 check for all child care staff members by January 31, 2019, unless the  
35 requirements of subsection 5 of this section are met by the child care provider  
36 and proof is submitted to the department of health and senior services by  
37 January 31, 2019.

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

43 4. Except as otherwise provided in subsection 2 of this section, upon  
44 completion of the criminal background check, any child care staff member or  
45 prospective child care staff member shall be ineligible for employment or presence  
46 at a family child care home, a group child care home, a licensed child care center,  
47 or a license-exempt child care facility if such person:

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

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

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

54 (4) Has a finding of child abuse or neglect under section 210.145 or  
55 210.152 or any other finding of child abuse or neglect based on any other state's  
56 registry or database;

57 (5) Has been convicted of a felony consisting of:

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

59 (b) Child abuse or neglect;

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

61 (d) Spousal abuse;

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

63 (f) Kidnapping;

64 (g) Arson;

65 (h) Physical assault or battery; or

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

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

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

73 Adult household members seventeen years of age and older in a family child care  
74 home shall be ineligible to maintain a presence at a family child care home if any  
75 one or more of the provisions of this subsection applies to them.

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

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

82 (2) The department of health and senior services provided to the first  
83 provider a qualifying criminal background check result, consistent with this  
84 section, for the staff member; and

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

88 6. (1) The department of health and senior services shall process the  
89 request for a criminal background check for any prospective child care staff  
90 member or child care staff member as expeditiously as possible, but not to exceed  
91 forty-five days after the date on which the provider submitted the request.

92 (2) The department shall provide the results of the criminal background  
93 check to the child care provider in a statement that indicates whether the  
94 prospective child care staff member or child care staff member is eligible or  
95 ineligible for employment or presence at the child care facility. The department  
96 shall not reveal to the child care provider any disqualifying crime or other related  
97 information regarding the prospective child care staff member or child care staff  
98 member.

99 (3) If such prospective child care staff member or child care staff member

100 is ineligible for employment or presence at the child care facility, the department  
101 shall, when providing the results of criminal background check, include  
102 information related to each disqualifying crime or other related information, in  
103 a report to such prospective child care staff member or child care staff member,  
104 along with information regarding the opportunity to appeal under subsection 7  
105 of this section.

106           7. The prospective child care staff member or child care staff member may  
107 appeal in writing to the department to challenge the accuracy or completeness of  
108 the information contained in his or her criminal background check, or to offer  
109 information mitigating the results and explaining why an eligibility exception  
110 should be granted. The department of health and senior services shall attempt  
111 to verify the accuracy of the information challenged by the individual, including  
112 making an effort to locate any missing disposition information related to the  
113 disqualifying crime. The appeal shall be filed within ten days from the delivery  
114 or mailing of the notice of ineligibility. The department shall make a decision on  
115 the appeal in a timely manner.

116           8. The department may adopt emergency rules to implement the  
117 requirements of this section. Any rule or portion of a rule, as that term is defined  
118 in section 536.010, that is created under the authority delegated in this section  
119 shall become effective only if it complies with and is subject to all of the  
120 provisions of chapter 536 and, if applicable, section 536.028. This section and  
121 chapter 536 are nonseverable, and if any of the powers vested with the general  
122 assembly pursuant to chapter 536 to review, to delay the effective date, or to  
123 disapprove and annul a rule are subsequently held unconstitutional, then the  
124 grant of rulemaking authority and any rule proposed or adopted after August 28,  
125 2018, shall be invalid and void.

126           9. (1) The provisions of this section shall not apply to any child care  
127 facility, as defined in section 210.201, maintained or operated under the exclusive  
128 control of a religious organization, as described in subdivision [(5)] (4) of  
129 subsection 1 of section 210.211, unless such facility is a recipient of federal funds  
130 for providing care for children, except for federal funds for those programs that  
131 meet the requirements for participation in the Child and Adult Care Food  
132 Program under 42 U.S.C. Section 1766.

133           (2) The provisions of this section, and any rules or regulations  
134 promulgated under this section, shall expire if 42 U.S.C. Section 9858f, as enacted  
135 by the Child Care and Development Block Grant (CCDBG) Act of 2014, and 45

136 CFR 98.43 are repealed or if Missouri no longer receives federal funds from the  
137 CCDBG.

✓

Unofficial

Bill

Copy