

FIRST REGULAR SESSION

# SENATE BILL NO. 386

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

Read 1st time February 13, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1896S.011

## AN ACT

To repeal sections 210.221 and 566.147, RSMo, and to enact in lieu thereof two new sections relating to child care facilities, with existing penalty provisions.

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

Section A. Sections 210.221 and 566.147, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 210.221 and 566.147, to  
3 read as follows:

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**  
42 **applicant would operate a child-care facility is located within one**  
43 **thousand feet of any location where a person required to register under**  
44 **sections 589.400 to 589.425 either resides, as that term is defined in**  
45 **subsection 3 of section 566.147, or regularly receives treatment or**  
46 **services.** The department may, after inspection, find the licensure, denial of  
47 licensure, suspension or revocation to be in the best interest of the state.

48 4. Any rule or portion of a rule, as that term is defined in section 536.010,  
49 that is created under the authority delegated in sections 210.201 to 210.245 shall  
50 become effective only if it complies with and is subject to all of the provisions of  
51 chapter 536 and, if applicable, section 536.028. All rulemaking authority  
52 delegated prior to August 28, 1999, is of no force and effect and  
53 repealed. Nothing in this section shall be interpreted to repeal or affect the  
54 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied  
55 with all applicable provisions of law. This section and chapter 536 are

56 nonseverable and if any of the powers vested with the general assembly pursuant  
57 to chapter 536 to review, to delay the effective date, or to disapprove and annul  
58 a rule are subsequently held unconstitutional, then the grant of rulemaking  
59 authority and any rule proposed or adopted after August 28, 1999, shall be  
60 invalid and void.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has  
2 been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions of  
4 section 568.020, incest; section 568.045, endangering the welfare of a child in the  
5 first degree; subsection 2 of section 568.080 as it existed prior to January 1, 2017,  
6 or section 573.200, use of a child in a sexual performance; section 568.090 as it  
7 existed prior to January 1, 2017, or section 573.205, promoting a sexual  
8 performance by a child; section 573.023, sexual exploitation of a minor; section  
9 573.025, promoting child pornography in the first degree; section 573.035,  
10 promoting child pornography in the second degree; section 573.037, possession of  
11 child pornography, or section 573.040, furnishing pornographic material to  
12 minors; or

13 (2) Any offense in any other jurisdiction which, if committed in this state,  
14 would be a violation listed in this section;  
15 shall not reside within one thousand feet of any public school as defined in  
16 section 160.011, any private school giving instruction in a grade or grades not  
17 higher than the twelfth grade, or any child care facility that is licensed under  
18 chapter 210, or any child care facility as defined in section 210.201 that is exempt  
19 from state licensure but subject to state regulation under section 210.252 and  
20 holds itself out to be a child care facility, where the school or facility is in  
21 existence at the time the individual begins to reside at the location. Such person  
22 shall also not reside within one thousand feet of the property line of the residence  
23 of a former victim of such person.

24 2. If such person has already established a residence and a public school,  
25 a private school, or child care facility is subsequently built or placed within one  
26 thousand feet of such person's residence, or a former victim subsequently resides  
27 on property with a property line within one thousand feet of such person's  
28 residence, then such person shall, within one week of the opening of such public  
29 school, private school, or child care facility, or the former victim residing on the  
30 property, notify the county sheriff where such public school, private school, child  
31 care facility, or residence of a former victim is located that he or she is now

32 residing within one thousand feet of such public school, private school, child care  
33 facility, or property line of the residence of a former victim, and shall provide  
34 verifiable proof to the sheriff that he or she resided there prior to the opening of  
35 such public school, private school, or child care facility, or the former victim  
36 residing on the property.

37 3. For purposes of this section, "resides" means sleeps in a residence,  
38 which may include more than one location and may be mobile or transitory, **but**  
39 **shall not include transitory or longer-term presence in facilities**  
40 **licensed under chapters 197 and 198 for purposes of receiving care,**  
41 **treatment, or services from such licensed facility.**

42 4. For the purposes of the section, one thousand feet shall be measured  
43 from the edge of the offender's property nearest the public school, private school,  
44 child care facility, or former victim to the nearest edge of the public school,  
45 private school, child care facility, or former victim's property.

46 5. Violation of the provisions of subsection 1 of this section is a class E  
47 felony except that the second or any subsequent violation is a class B  
48 felony. Violation of the provisions of subsection 2 of this section is a class A  
49 misdemeanor except that the second or subsequent violation is a class E felony.

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