

SECOND REGULAR SESSION

[PERFECTED]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 982

101ST GENERAL ASSEMBLY

4507S.02P

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 208.044, 208.046, 208.053, 210.027, 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245, 210.251, 210.252, 210.254, 210.255, 210.256, 210.258, 210.275, 210.1007, and 210.1080, RSMo, and to enact in lieu thereof twenty-one new sections relating to child care, with existing penalty provisions.

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

Section A. Sections 208.044, 208.046, 208.053, 210.027,
2 210.102, 210.199, 210.203, 210.211, 210.221, 210.223, 210.231,
3 210.241, 210.245, 210.251, 210.252, 210.254, 210.255, 210.256,
4 210.258, 210.275, 210.1007, and 210.1080, RSMo, are repealed
5 and twenty-one new sections enacted in lieu thereof, to be known
6 as sections 208.044, 208.046, 208.053, 210.027, 210.102,
7 210.203, 210.211, 210.221, 210.223, 210.231, 210.241, 210.245,
8 210.251, 210.252, 210.254, 210.255, 210.256, 210.258, 210.275,
9 210.1007, and 210.1080, to read as follows:

208.044. 1. The **[children's division]** **department of**
2 **elementary and secondary education** shall provide child day
3 care services to any person who meets the qualifications set
4 forth at sections 301 and 302 of the Family Support Act of
5 1988 (P.L. 100-485).

2. The **[division]** **department** shall purchase the child
7 day care services required by this section by making
8 payments directly to any providers of day care services

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

9 licensed pursuant to chapter 210 or to providers of day care
10 services who are not required by chapter 210 to be licensed
11 because they are providing care to no more than six children
12 pursuant to section 210.211.

13 3. When a person who has been eligible and receiving
14 day care services under this section becomes ineligible due
15 to the end of the twelve-month period of transitional day
16 care, as defined in section 208.400, such person may receive
17 day care services from the [division] **department** if
18 otherwise eligible for such services.

208.046. 1. The [children's division] **department of**
2 **elementary and secondary education** shall promulgate rules
3 [to become effective no later than July 1, 2011,] to modify
4 the income eligibility criteria for any person receiving
5 state-funded child care assistance [under this chapter],
6 either through vouchers or direct reimbursement to child
7 care providers, as follows:

8 (1) Child care recipients eligible under this chapter
9 and the criteria set forth in [13 CSR 35-32.010] **5 CSR 25-**
10 **200** may pay a fee based on adjusted gross income and family
11 size unit based on a child care sliding fee scale
12 established by the [children's division] **department of**
13 **elementary and secondary education**, which shall be subject
14 to appropriations. However, a person receiving state-funded
15 child care assistance under this chapter and whose income
16 surpasses the annual appropriation level may continue to
17 receive reduced subsidy benefits on a scale established by
18 the [children's division] **department**, at which time such
19 person will have assumed the full cost of the maximum base
20 child care subsidy rate established by the [children's
21 division] **department** and shall be no longer eligible for
22 child care subsidy benefits;

23 (2) The sliding scale fee may be waived for children
24 with special needs as established by the [division]
25 **department;** and

26 (3) The maximum payment by the [division] **department**
27 shall be the applicable rate minus the applicable fee.

28 2. For purposes of this section, "annual appropriation
29 level" shall mean the maximum income level to be eligible
30 for a full child care benefit as determined through the
31 annual appropriations process.

32 3. Any rule or portion of a rule, as that term is
33 defined in section 536.010, that is created under the
34 authority delegated in this section shall become effective
35 only if it complies with and is subject to all of the
36 provisions of chapter 536 and, if applicable, section
37 536.028. This section and chapter 536 are nonseverable and
38 if any of the powers vested with the general assembly
39 pursuant to chapter 536 to review, to delay the effective
40 date, or to disapprove and annul a rule are subsequently
41 held unconstitutional, then the grant of rulemaking
42 authority and any rule proposed or adopted after August 28,
43 2010, shall be invalid and void.

 208.053. 1. The provisions of this section shall be
2 known as the "Low-Wage Trap Elimination Act". In order to
3 more effectively transition persons receiving state-funded
4 child care subsidy benefits under this chapter, the
5 [children's division] **department of elementary and secondary**
6 **education,** in conjunction with the department of revenue,
7 shall, subject to appropriations, by July 1, 2022, implement
8 a pilot program in a county with a charter form of
9 government and with more than six hundred thousand but fewer
10 than seven hundred thousand inhabitants, a county of the
11 first classification with more than two hundred sixty

12 thousand but fewer than three hundred thousand inhabitants,
13 and a county of the first classification with more than two
14 hundred thousand but fewer than two hundred sixty thousand
15 inhabitants, to be called the "Hand-Up Program", to allow
16 applicants in the program to receive transitional child care
17 benefits without the requirement that such applicants first
18 be eligible for full child care benefits.

19 (1) For purposes of this section, "full child care
20 benefits" shall be the full benefits awarded to a recipient
21 based on the income eligibility amount established by the
22 **[division] department** through the annual appropriations
23 process as of August 28, 2021, to qualify for the benefits
24 and shall not include the transitional child care benefits
25 that are awarded to recipients whose income surpasses the
26 eligibility level for full benefits to continue. The hand-
27 up program shall be voluntary and shall be designed such
28 that an applicant may begin receiving the transitional child
29 care benefit without having first qualified for the full
30 child care benefit or any other tier of the transitional
31 child care benefit. Under no circumstances shall any
32 applicant be eligible for the hand-up program if the
33 applicant's income does not fall within the transitional
34 child care benefit income limits established through the
35 annual appropriations process.

36 (2) A participating recipient shall be allowed to opt
37 out of the program at any time, but such person shall not be
38 allowed to participate in the program a second time.

39 2. The **[division] department** shall track the number of
40 participants in the hand-up program and shall issue an
41 annual report to the general assembly by September 1, 2023,
42 and annually on September first thereafter, detailing the
43 effectiveness of the pilot program in encouraging recipients

44 to secure employment earning an income greater than the
45 maximum wage eligible for the full child care benefit. The
46 report shall also detail the costs of administration and the
47 increased amount of state income tax paid as a result of the
48 program, as well as an analysis of whether the pilot program
49 could be expanded to include other types of benefits,
50 including, but not limited to, food stamps, temporary
51 assistance for needy families, low-income heating
52 assistance, women, infants and children supplemental
53 nutrition program, the state children's health insurance
54 program, and MO HealthNet benefits.

55 3. The **[division] department** shall pursue all
56 necessary waivers from the federal government to implement
57 the hand-up program. If the **[division] department** is unable
58 to obtain such waivers, the **[division] department** shall
59 implement the program to the degree possible without such
60 waivers.

61 4. Any rule or portion of a rule, as that term is
62 defined in section 536.010, that is created under the
63 authority delegated under this section shall become
64 effective only if it complies with and is subject to all of
65 the provisions of chapter 536 and, if applicable, section
66 536.028. This section and chapter 536 are nonseverable and
67 if any of the powers vested with the general assembly
68 pursuant to chapter 536 to review, to delay the effective
69 date, or to disapprove and annul a rule are subsequently
70 held unconstitutional, then the grant of rulemaking
71 authority and any rule proposed or adopted after August 28,
72 2012, shall be invalid and void.

73 5. Pursuant to section 23.253 of the Missouri sunset
74 act:

75 (1) The provisions of the new program authorized under
76 this section shall sunset automatically three years after
77 August 28, 2021, unless reauthorized by an act of the
78 general assembly; and

79 (2) If such program is reauthorized, the program
80 authorized under this section shall sunset automatically
81 three years after the effective date of the reauthorization
82 of this section; and

83 (3) This section shall terminate on September first of
84 the calendar year immediately following the calendar year in
85 which the program authorized under this section is sunset.

210.027. [1.] For child-care providers who receive
2 state or federal funds for providing child-care services,
3 either by direct payment or through reimbursement to a child-
4 care beneficiary, the department of [social services]
5 **elementary and secondary education** shall:

6 (1) Establish publicly available website access to
7 provider-specific information about any health and safety
8 licensing or regulatory requirements for the providers, and
9 including dates of inspections, history of violations, and
10 compliance actions taken, as well as the consumer education
11 information required under subdivision (12) of this section;

12 (2) Establish or designate one hotline for parents to
13 submit complaints about child care providers;

14 (3) Be authorized to revoke the registration of a
15 registered provider for due cause;

16 (4) Require providers to be at least eighteen years of
17 age;

18 (5) Establish minimum requirements for building and
19 physical premises to include:

20 (a) Compliance with state and local fire, health, and
21 building codes, which shall include the ability to evacuate
22 children in the case of an emergency; and

23 (b) Emergency preparedness and response planning.

24 Child care providers shall meet these minimum requirements
25 prior to receiving federal assistance. Where there are no
26 local ordinances or regulations regarding smoke detectors,
27 the department shall require providers, by rule, to install
28 and maintain an adequate number of smoke detectors in the
29 residence or other building where child care is provided;

30 (6) Require providers to be tested for tuberculosis on
31 the schedule required for employees in licensed facilities;

32 (7) Require providers to notify parents if the
33 provider does not have immediate access to a telephone;

34 (8) Make providers aware of local opportunities for
35 training in first aid and child care;

36 (9) Promulgate rules and regulations to define
37 preservice training requirements for child care providers
38 and employees pursuant to applicable federal laws and
39 regulations;

40 (10) Establish procedures for conducting unscheduled
41 on-site monitoring of child care providers prior to
42 receiving state or federal funds for providing child care
43 services either by direct payment or through reimbursement
44 to a child care beneficiary, and annually thereafter;

45 (11) Require child care providers who receive
46 assistance under applicable federal laws and regulations to
47 report to the department any serious injuries or death of
48 children occurring in child care; and

49 (12) With input from statewide stakeholders such as
50 parents, child care providers or administrators, and system

51 advocate groups, establish a transparent system of quality
52 indicators appropriate to the provider setting that shall
53 provide parents with a way to differentiate between child
54 care providers available in their communities as required by
55 federal rules. The system shall describe the standards used
56 to assess the quality of child care providers. The system
57 shall indicate whether the provider meets Missouri's
58 registration or licensing standards, is in compliance with
59 applicable health and safety requirements, and the nature of
60 any violations related to registration or licensing
61 requirements. The system shall also indicate if the
62 provider utilizes curricula and if the provider is in
63 compliance with staff educational requirements. Such system
64 of quality indicators established under this subdivision
65 with the input from stakeholders shall be promulgated by
66 rules. Any rule or portion of a rule, as that term is
67 defined in section 536.010, that is created under the
68 authority delegated in this section shall become effective
69 only if it complies with and is subject to all of the
70 provisions of chapter 536 and, if applicable, section
71 536.028. This section and chapter 536 are nonseverable and
72 if any of the powers vested with the general assembly
73 pursuant to chapter 536 to review, to delay the effective
74 date, or to disapprove and annul a rule are subsequently
75 held unconstitutional, then the grant of rulemaking
76 authority and any rule proposed or adopted after August 28,
77 2014, shall be invalid and void. This subdivision shall not
78 be construed as authorizing the operation, establishment,
79 maintenance, or mandating or offering of incentives to
80 participate in a quality rating system under section
81 **[161.216] 161.217.**

82 [2. No state agency shall enforce the provisions of
83 this section until October 1, 2015, or six months after the
84 implementation of federal regulations mandating such
85 provisions, whichever is later.]

210.102. 1. There is hereby established within the
2 department of [social services] **elementary and secondary**
3 **education** the "Coordinating Board for Early Childhood",
4 which shall constitute a body corporate and politic, and
5 shall include, but not be limited to, the following members:

- 6 (1) A representative from the governor's office;
- 7 (2) A representative from each of the following
8 departments: health and senior services, mental health,
9 social services, and elementary and secondary education;
- 10 (3) A representative of the judiciary;
- 11 (4) A representative of the family and community trust
12 board (FACT);
- 13 (5) A representative from the head start program; **and**
- 14 (6) Nine members appointed by the governor with the
15 advice and consent of the senate who are representatives of
16 the groups, such as business, philanthropy, civic groups,
17 faith-based organizations, parent groups, advocacy
18 organizations, early childhood service providers, and other
19 stakeholders.

20 The coordinating board may make all rules it deems necessary
21 to enable it to conduct its meetings, elect its officers,
22 and set the terms and duties of its officers. The
23 coordinating board shall elect from amongst its members a
24 chairperson, vice chairperson, a secretary-reporter, and
25 such other officers as it deems necessary. Members of the
26 board shall serve without compensation but may be reimbursed

27 for actual expenses necessary to the performance of their
28 official duties for the board.

29 2. The coordinating board for early childhood shall
30 have the power to:

31 (1) Develop a comprehensive statewide long-range
32 strategic plan for a cohesive early childhood system;

33 (2) Confer with public and private entities for the
34 purpose of promoting and improving the development of
35 children from birth through age five of this state;

36 (3) Identify legislative recommendations to improve
37 services for children from birth through age five;

38 (4) Promote coordination of existing services and
39 programs across public and private entities;

40 (5) Promote research-based approaches to services and
41 ongoing program evaluation;

42 (6) Identify service gaps and advise public and
43 private entities on methods to close such gaps;

44 (7) Apply for and accept gifts, grants,
45 appropriations, loans, or contributions to the coordinating
46 board for early childhood fund from any source, public or
47 private, and enter into contracts or other transactions with
48 any federal or state agency, any private organizations, or
49 any other source in furtherance of the purpose of subsection
50 1 of this section and this subsection, and take any and all
51 actions necessary to avail itself of such aid and
52 cooperation;

53 (8) Direct disbursements from the coordinating board
54 for early childhood fund as provided in this section;

55 (9) Administer the coordinating board for early
56 childhood fund and invest any portion of the moneys not
57 required for immediate disbursement in obligations of the
58 United States or any agency or instrumentality of the United

59 States, in obligations of the state of Missouri and its
60 political subdivisions, in certificates of deposit and time
61 deposits, or other obligations of banks and savings and loan
62 associations, or in such other obligations as may be
63 prescribed by the board;

64 (10) Purchase, receive, take by grant, gift, devise,
65 bequest or otherwise, lease, or otherwise acquire, own,
66 hold, improve, employ, use, and otherwise deal with real or
67 personal property or any interests therein, wherever
68 situated;

69 (11) Sell, convey, lease, exchange, transfer or
70 otherwise dispose of all or any of its property or any
71 interest therein, wherever situated;

72 (12) Employ and fix the compensation of an executive
73 director and such other agents or employees as it considers
74 necessary;

75 (13) Adopt, alter, or repeal by its own bylaws, rules,
76 and regulations governing the manner in which its business
77 may be transacted;

78 (14) Adopt and use an official seal;

79 (15) Assess or charge fees as the board determines to
80 be reasonable to carry out its purposes;

81 (16) Make all expenditures which are incident and
82 necessary to carry out its purposes;

83 (17) Sue and be sued in its official name;

84 (18) Take such action, enter into such agreements, and
85 exercise all functions necessary or appropriate to carry out
86 the duties and purposes set forth in this section.

87 3. There is hereby created the "Coordinating Board for
88 Early Childhood Fund" which shall consist of the following:

89 (1) Any moneys appropriated by the general assembly
90 for use by the board in carrying out the powers set out in
91 subsections 1 and 2 of this section;

92 (2) Any moneys received from grants or which are
93 given, donated, or contributed to the fund from any source;

94 (3) Any moneys received as fees authorized under
95 subsections 1 and 2 of this section;

96 (4) Any moneys received as interest on deposits or as
97 income on approved investments of the fund;

98 (5) Any moneys obtained from any other available
99 source.

100 Notwithstanding the provisions of section 33.080 to the
101 contrary, any moneys remaining in the coordinating board for
102 early childhood fund at the end of the biennium shall not
103 revert to the credit of the general revenue fund.

210.203. The department of [health and senior
2 services] **elementary and secondary education** shall maintain
3 a record of substantiated, signed parental complaints
4 against child care facilities licensed pursuant to this
5 chapter, and shall make such complaints and findings
6 available to the public upon request.

210.211. 1. It shall be unlawful for any person to
2 establish, maintain or operate a child-care facility for
3 children, or to advertise or hold himself or herself out as
4 being able to perform any of the services as defined in
5 section 210.201, without having in effect a written license
6 granted by the department of [health and senior services]
7 **elementary and secondary education**; except that nothing in
8 sections 210.203 to 210.245 shall apply to:

9 (1) Any person who is caring for six or fewer
10 children, including a maximum of three children under the

11 age of two, at the same physical address. For purposes of
12 this subdivision, children who live in the caregiver's home
13 and who are eligible for enrollment in a public
14 kindergarten, elementary, or high school shall not be
15 considered in the total number of children being cared for;

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

21 (3) Any graded boarding school that is conducted in
22 good faith primarily to provide education;

23 (4) Any summer camp that is conducted in good faith
24 primarily to provide recreation;

25 (5) Any hospital, sanitarium, or home that is
26 conducted in good faith primarily to provide medical
27 treatment or nursing or convalescent care for children;

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

35 (7) Any school system, as defined in section 210.201;

36 (8) Any Montessori school as defined in section
37 210.201;

38 (9) Any business that operates a child care program
39 for the convenience of its customers **or its employees** if the
40 following conditions are met:

41 (a) The business provides child care for **customers' or**
42 **employees' children** for no more than four hours per day; and

43 (b) Customers **or employees** remain on site while their
44 children are being cared for by the business establishment;

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

46 (11) Any religious organization academic preschool or
47 kindergarten for four- and five-year-old children;

48 (12) Any weekly Sunday or Sabbath school, a vacation
49 bible school, or child care made available while the parents
50 or guardians are attending worship services or other
51 meetings and activities conducted or sponsored by a
52 religious organization;

53 (13) Any neighborhood youth development program under
54 section 210.278;

55 (14) Any religious organization elementary or
56 secondary school;

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

63 (16) Any nursery school, as defined in section
64 210.201; and

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

73 2. Notwithstanding the provisions of subsection 1 of
74 this section, no child-care facility shall be exempt from

75 licensure if such facility receives any state or federal
76 funds for providing care for children, except for federal
77 funds for those programs which meet the requirements for
78 participation in the Child and Adult Care Food Program
79 pursuant to 42 U.S.C. Section 1766. Grants to parents for
80 child care pursuant to sections 210.201 to 210.257 shall not
81 be construed to be funds received by a person or facility
82 listed in subdivisions (1) and (17) of subsection 1 of this
83 section.

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

210.221. 1. The department of [health and senior
2 **services]** **elementary and secondary education** shall have the
3 following powers and duties:

4 (1) After inspection, to grant licenses to persons to
5 operate child-care facilities if satisfied as to the good
6 character and intent of the applicant and that such
7 applicant is qualified and equipped to render care or
8 service conducive to the welfare of children. Each license
9 shall specify the kind of child-care services the licensee

10 is authorized to perform, the number of children that can be
11 received or maintained, and their ages [and sex];

12 (2) To inspect the conditions of the homes and other
13 places in which the applicant operates a child-care
14 facility, inspect their books and records, premises and
15 children being served, examine their officers and agents,
16 deny, suspend, place on probation or revoke the license of
17 such persons as fail to obey the provisions of sections
18 210.201 to 210.245 or the rules and regulations made by the
19 department of [health and senior services] **elementary and**
20 **secondary education**. The [director] **commissioner** also may
21 revoke or suspend a license when the licensee [fails to
22 renew or] surrenders the license;

23 (3) To promulgate and issue rules and regulations the
24 department deems necessary or proper in order to establish
25 standards of service and care to be rendered by such
26 licensees to children. No rule or regulation promulgated by
27 the [division] **department** shall in any manner restrict or
28 interfere with any religious instruction, philosophies or
29 ministries provided by the facility and shall not apply to
30 facilities operated by religious organizations which are not
31 required to be licensed;

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

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

39 2. Any child-care facility may request a variance from
40 a rule or regulation promulgated pursuant to this section.
41 The request for a variance shall be made in writing to the

42 department of [health and senior services] **elementary and**
43 **secondary education** and shall include the reasons the
44 facility is requesting the variance. The department shall
45 approve any variance request that does not endanger the
46 health or safety of the children served by the facility.
47 The burden of proof at any appeal of a disapproval of a
48 variance application shall be with the department of [health
49 and senior services] **elementary and secondary education**.
50 Local inspectors may grant a variance, subject to approval
51 by the department of [health and senior services] **elementary**
52 **and secondary education**.

53 3. The department shall deny, suspend, place on
54 probation or revoke a license if it receives official
55 written notice that the local governing body has found that
56 license is prohibited by any local law related to the health
57 and safety of children. The department may deny an
58 application for a license if the department determines that
59 a home or other place in which an applicant would operate a
60 child-care facility is located within one thousand feet of
61 any location where a person required to register under
62 sections 589.400 to 589.425 either resides, as that term is
63 defined in subsection 3 of section 566.147, or regularly
64 receives treatment or services, excluding any treatment or
65 services delivered in a hospital, as that term is defined in
66 section 197.020, or in facilities owned or operated by a
67 hospital system. The department may, after inspection, find
68 the licensure, denial of licensure, suspension or revocation
69 to be in the best interest of the state.

70 4. Any rule or portion of a rule, as that term is
71 defined in section 536.010, that is created under the
72 authority delegated in sections 210.201 to 210.245 shall
73 become effective only if it complies with and is subject to

74 all of the provisions of chapter 536 and, if applicable,
75 section 536.028. All rulemaking authority delegated prior
76 to August 28, 1999, is of no force and effect and repealed.
77 Nothing in this section shall be interpreted to repeal or
78 affect the validity of any rule filed or adopted prior to
79 August 28, 1999, if it fully complied with all applicable
80 provisions of law. This section and chapter 536 are
81 nonseverable and if any of the powers vested with the
82 general assembly pursuant to chapter 536 to review, to delay
83 the effective date, or to disapprove and annul a rule are
84 subsequently held unconstitutional, then the grant of
85 rulemaking authority and any rule proposed or adopted after
86 August 28, 1999, shall be invalid and void.

210.223. 1. All licensed child care facilities that
2 provide care for children less than one year of age shall
3 implement and maintain a written safe sleep policy in
4 accordance with the most recent safe sleep recommendations
5 of the American Academy of Pediatrics. The purpose of the
6 safe sleep policy is to maintain a safe sleep environment
7 that reduces the risk of sudden infant death syndrome and
8 sudden unexpected infant deaths in children less than one
9 year of age.

10 2. When, in the opinion of the infant's licensed
11 health care provider, an infant requires alternative sleep
12 positions or special sleeping arrangements that differ from
13 those set forth in the most recent sleep recommendations of
14 the American Academy of Pediatrics, the child care facility
15 shall be provided with written instructions, signed by the
16 infant's licensed health care provider, detailing the
17 alternative sleep positions or special sleeping arrangements
18 for such infant. The child care facility shall put the
19 infant to sleep in accordance with such written instructions.

20 3. As used in this section, the following terms shall
21 mean:

22 (1) "Sudden infant death syndrome", the sudden death
23 of an infant less than one year of age that cannot be
24 explained after a thorough investigation has been conducted,
25 including a complete autopsy, an examination of the death
26 scene, and a review of the clinical history;

27 (2) "Sudden unexpected infant death", the sudden and
28 unexpected death of an infant less than one year of age in
29 which the manner and cause of death are not immediately
30 obvious prior to investigation. Causes of sudden unexpected
31 infant death include, but are not limited to, metabolic
32 disorders, hypothermia or hyperthermia, neglect or homicide,
33 poisoning, and accidental suffocation.

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

40 5. The department **of elementary and secondary**
41 **education** shall promulgate rules to implement the provisions
42 of this section. Such rules shall include, but not be
43 limited to:

44 (1) Amending any current rules which are not in
45 compliance with the most recent safe sleep recommendations
46 of the American Academy of Pediatrics[, including but not
47 limited to 19 CSR 30.62-092(1)C which permits the use of
48 bumper pads in cribs or playpens];

49 (2) Keeping soft or loose bedding away from sleeping
50 infants and out of safe sleep environments, including, but
51 not limited to, bumper pads, pillows, quilts, comforters,

52 sleep positioning devices, sheepskins, blankets, flat
53 sheets, cloth diapers, bibs, and other similar items; and

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

56 6. The department **of elementary and secondary**
57 **education** may adopt emergency rules to implement the
58 requirements of this section. Any rule or portion of a
59 rule, as that term is defined in section 536.010, that is
60 created under the authority delegated in this section shall
61 become effective only if it complies with and is subject to
62 all of the provisions of chapter 536 and, if applicable,
63 section 536.028. This section and chapter 536 are
64 nonseverable and if any of the powers vested with the
65 general assembly pursuant to chapter 536 to review, to delay
66 the effective date, or to disapprove and annul a rule are
67 subsequently held unconstitutional, then the grant of
68 rulemaking authority and any rule proposed or adopted after
69 August 28, 2015, shall be invalid and void.

210.231. The department of [health and senior
2 **services]** **elementary and secondary education** may designate
3 to act for it, with full authority of law, any
4 instrumentality of any political subdivision of the state of
5 Missouri deemed by the department of [health and senior
6 **services]** **elementary and secondary education** to be
7 competent, to investigate and inspect licensees and
8 applicants for a license. Local inspection of child care
9 facilities may be accomplished if the standards employed by
10 local personnel are substantially equivalent to state
11 standards and local personnel are available for enforcement
12 of such standards.

210.241. Any person aggrieved by a final decision of
2 the department of [health and senior services] **elementary**

3 **and secondary education** made in the administration of
4 sections 210.201 to 210.245 shall be entitled to judicial
5 review thereof as provided in chapter 536.

210.245. 1. Any person who violates any provision of
2 sections 210.201 to 210.245, or who for such person or for
3 any other person makes materially false statements in order
4 to obtain a license or the renewal thereof pursuant to
5 sections 210.201 to 210.245, shall be guilty of a class C
6 misdemeanor for the first offense and shall be assessed a
7 fine not to exceed seven hundred fifty dollars and shall be
8 guilty of a class A misdemeanor and shall be assessed a fine
9 of up to two thousand dollars per day, not to exceed a total
10 of ten thousand dollars for subsequent offenses. In case
11 such guilty person is a corporation, association,
12 institution or society, the officers thereof who participate
13 in such misdemeanor shall be subject to the penalties
14 provided by law.

15 2. If the department of [health and senior services]
16 **elementary and secondary education** proposes to deny,
17 suspend, place on probation or revoke a license, the
18 department of [health and senior services] **elementary and**
19 **secondary education** shall serve upon the applicant or
20 licensee written notice of the proposed action to be taken.
21 The notice shall contain a statement of the type of action
22 proposed, the basis for it, the date the action will become
23 effective, and a statement that the applicant or licensee
24 shall have thirty days to request in writing a hearing
25 before the administrative hearing commission and that such
26 request shall be made to the department of [health and
27 senior services] **elementary and secondary education**. If no
28 written request for a hearing is received by the department
29 of [health and senior services] **elementary and secondary**

30 **education** within thirty days of the delivery or mailing by
31 certified mail of the notice to the applicant or licensee,
32 the proposed discipline shall take effect on the thirty-
33 first day after such delivery or mailing of the notice to
34 the applicant or licensee. If the applicant or licensee
35 makes a written request for a hearing, the department of
36 [health and senior services] **elementary and secondary**
37 **education** shall file a complaint with the administrative
38 hearing commission within ninety days of receipt of the
39 request for a hearing.

40 3. The department of [health and senior services]
41 **elementary and secondary education** may issue letters of
42 censure or warning without formal notice or hearing.
43 Additionally, the department of [health and senior services]
44 **elementary and secondary education** may place a licensee on
45 probation pursuant to chapter 621.

46 4. The department of [health and senior services]
47 **elementary and secondary education** may suspend any license
48 simultaneously with the notice of the proposed action to be
49 taken in subsection 2 of this section, if the department of
50 [health and senior services] **elementary and secondary**
51 **education** finds that there is a threat of imminent bodily
52 harm to the children in care. The notice of suspension
53 shall include the basis of the suspension and the appeal
54 rights of the licensee pursuant to this section. The
55 licensee may appeal the decision to suspend the license to
56 the department of [health and senior services] **elementary**
57 **and secondary education**. The appeal shall be filed within
58 ten days from the delivery or mailing by certified mail of
59 the notice of appeal. A hearing shall be conducted by the
60 department of [health and senior services] **elementary and**
61 **secondary education** within ten days from the date the appeal

62 is filed. The suspension shall continue in effect until the
63 conclusion of the proceedings, including review thereof,
64 unless sooner withdrawn by the department of [health and
65 senior services] **elementary and secondary education**,
66 dissolved by a court of competent jurisdiction or stayed by
67 the administrative hearing commission. Any person aggrieved
68 by a final decision of the department made pursuant to this
69 section shall be entitled to judicial review in accordance
70 with chapter 536.

71 5. In addition to initiating proceedings pursuant to
72 subsection 1 of this section, or in lieu thereof, the
73 prosecuting attorney of the county where the child-care
74 facility is located may file suit for a preliminary and
75 permanent order overseeing or preventing the operation of a
76 child-care facility for violating any provision of sections
77 210.201 to 210.245. The order shall remain in force until
78 such a time as the court determines that the child-care
79 facility is in substantial compliance. If the prosecuting
80 attorney refuses to act or fails to act after receipt of
81 notice from the department of [health and senior services]
82 **elementary and secondary education**, the department of
83 [health and senior services] **elementary and secondary**
84 **education** may request that the attorney general seek an
85 injunction of the operation of such child-care facility.

86 6. In cases of imminent bodily harm to children in the
87 care of a child-care facility, including an unlicensed,
88 nonexempt facility, the department may file suit in the
89 circuit court of the county in which the child-care facility
90 is located for injunctive relief, which may include removing
91 the children from the facility, overseeing the operation of
92 the facility or closing the facility. Failure by the
93 department to file suit under the provisions of this

94 subsection shall not be construed as creating any liability
95 in tort or incurring other obligations or duties except as
96 otherwise specified.

97 7. Any person who operates an unlicensed, nonexempt
98 child-care facility in violation of the provisions of
99 sections 210.201 to 210.245 shall be liable for a civil
100 penalty of not less than seven hundred fifty dollars and not
101 more than two thousand dollars. The department shall serve
102 upon such person written notice of the department's findings
103 as to the child-care facility's unlicensed, nonexempt
104 status, along with educational materials about Missouri's
105 child-care facility laws and regulations, how a facility may
106 become exempt or licensed, and penalties for operating an
107 unlicensed, nonexempt child-care facility. The notice shall
108 contain a statement that the person shall have thirty days
109 to become compliant with sections 210.201 to 210.245,
110 including attaining exempt status or becoming licensed. The
111 person's failure to do so shall result in a civil action in
112 the circuit court of Cole County or criminal charges under
113 this section. If, following the receipt of the written
114 notice, the person operating the child-care facility fails
115 to become compliant with sections 210.201 to 210.245, the
116 department may bring a civil action in the circuit court of
117 Cole County against such person. The department may, but
118 shall not be required to, request that the attorney general
119 bring the action in place of the department. No civil
120 action provided by this subsection shall be brought if the
121 criminal penalties under subsection 1 of this section have
122 been previously ordered against the person for the same
123 violation. Failure by the department to file suit under the
124 provisions of this subsection shall not be construed as

125 creating any liability in tort or incurring other
126 obligations or duties except as otherwise specified.

127 8. There shall be established the "Family Child Care
128 Provider Fund" in the state treasury, which shall consist of
129 such funds as appropriated by the general assembly. The
130 state treasurer shall be custodian of the fund. In
131 accordance with sections 30.170 and 30.180, the state
132 treasurer may approve disbursements. The fund shall be a
133 dedicated fund and moneys in the fund shall be used solely
134 by the department for the dissemination of information
135 concerning compliance with child-care facility laws and
136 regulations, including licensed or exempt status;
137 educational initiatives relating to, inter alia, child care,
138 safe sleep practices, and child nutrition; and the provision
139 of financial assistance on the basis of need for family
140 child-care homes to become licensed, as determined by the
141 department and subject to available moneys in the fund.
142 Notwithstanding the provisions of section 33.080 to the
143 contrary, any moneys remaining in the fund at the end of the
144 biennium shall not revert to the credit of the general
145 revenue fund. The state treasurer shall invest moneys in
146 the fund in the same manner as other funds are invested.
147 Any interest and moneys earned on such investments shall be
148 credited to the fund.

210.251. 1. [By January 1, 1994,] Financial
2 incentives shall be provided by the department of [health
3 and senior services] **elementary and secondary education**
4 through the child development block grant and other public
5 moneys for child-care facilities wishing to upgrade their
6 standard of care and which meet quality standards.

7 2. The department of health and senior services shall
8 make federal funds available to licensed or inspected child-

9 care centers pursuant to federal law as set forth in the
10 Child and Adult Care Food Program, 42 U.S.C. Section 1766.

11 3. Notwithstanding any other provision of law to the
12 contrary, in the administration of the program for at-risk
13 children through the Child and Adult Care Food Program, 42
14 U.S.C. Section 1766, this state shall not have requirements
15 that are stricter than federal regulations for participants
16 in such program. Child care facilities shall not be
17 required to be licensed child care providers to participate
18 in such federal program so long as minimum health and safety
19 standards are met and documented.

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

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

20 3. Any child-care facility may request a variance from
21 a rule or regulation promulgated pursuant to this section.

22 The request for a variance shall be made in writing to the
23 department of elementary and secondary education and shall
24 include the reasons the facility is requesting the
25 variance. The department shall approve any variance request
26 that does not endanger the health or safety of the children
27 served by the facility. The burden of proof at any appeal
28 of a disapproval of a variance application shall be with the
29 department of elementary and secondary education. Local
30 inspectors may grant a variance, subject to approval by the
31 department **of elementary and secondary education.**

32 4. The department of elementary and secondary
33 education shall administer the provisions of sections
34 210.252 to 210.256, with the cooperation of the state fire
35 marshal, the department of [elementary and secondary
36 education] **health and senior services**, local fire
37 departments and local health agencies.

38 5. The department of elementary and secondary
39 education shall promulgate rules and regulations to
40 implement and administer the provisions of sections 210.252
41 to 210.256. Such rules and regulations shall provide for
42 the protection of children in all child-care facilities
43 whether or not such facility is subject to the licensing
44 provisions of sections 210.201 to 210.245.

45 6. The department of health and senior services, after
46 consultation with the department of elementary and secondary
47 education, may promulgate rules and regulations to implement
48 and administer the provisions of this section related to
49 sanitation requirements. Such rules and regulations shall
50 provide for the protection of children in all child-care
51 facilities whether or not such facility is subject to the
52 licensing provisions of sections 210.201 to 210.245.

53 7. Any rule or portion of a rule, as that term is
54 defined in section 536.010, that is created under the
55 authority delegated in sections 210.252 to 210.256 shall
56 become effective only if it complies with and is subject to
57 all of the provisions of chapter 536 and, if applicable,
58 section 536.028. All rulemaking authority delegated prior
59 to August 28, 1999, is of no force and effect and repealed.
60 Nothing in this section shall be interpreted to repeal or
61 affect the validity of any rule filed or adopted prior to
62 August 28, 1999, if it fully complied with all applicable
63 provisions of law. This section and chapter 536 are
64 nonseverable and if any of the powers vested with the
65 general assembly pursuant to chapter 536 to review, to delay
66 the effective date or to disapprove and annul a rule are
67 subsequently held unconstitutional, then the grant of
68 rulemaking authority and any rule proposed or adopted after
69 August 28, 1999, shall be invalid and void.

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

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

12 (1) Notification that the child-care facility is
13 exempt as a religious organization from state licensing and
14 therefore not inspected or supervised by the department of
15 [health and senior services] **elementary and secondary**

16 **education** other than as provided herein and that the
17 facility has been inspected by those designated in section
18 210.252 and is complying with the fire, health and
19 sanitation requirements of sections 210.252 to 210.257;

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

24 (3) The staff/child ratios for enrolled children under
25 two years of age, for children ages two to four and for
26 those five years of age and older as required by the
27 department of [health and senior services] **elementary and**
28 **secondary education** regulations in licensed facilities, the
29 standard ratio of staff to number of children for each age
30 level maintained in the exempt facility, and the total
31 number of children to be enrolled by the facility;

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

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

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

38 3. A copy of notice of parental responsibility, signed
39 by the principal operating officer of the exempt child-care
40 facility and the individual primarily responsible for the
41 religious organization conducting the child-care facility
42 and copies of the annual fire and safety inspections shall
43 be filed annually during the month of August with the
44 department of [health and senior services] **elementary and**
45 **secondary education**.

210.255. 1. A parent or guardian of a child enrolled
2 in a child care facility established, maintained or operated

3 by a religious organization who has cause to believe that
4 this section and section 210.254 are being violated may
5 notify appropriate local law enforcement authorities.

6 2. If a child care facility maintained or operated
7 under the exclusive control of a religious organization is
8 suspected of violating any provision of sections 210.252 to
9 210.255, or if there is good cause to believe that the
10 signatory made a materially false statement in the notice of
11 parental responsibility required by sections 210.252 to
12 210.255, the department of [health and senior services]
13 **elementary and secondary education** shall give twenty days'
14 written notice to the facility concerning the nature of its
15 suspected noncompliance. If compliance is not forthcoming
16 within the twenty days, the department shall thereafter
17 notify the prosecuting attorney of the county wherein the
18 facility is located concerning the suspected noncompliance.
19 If the prosecuting attorney refuses to act or fails to act
20 within thirty days of receipt of notice from the department,
21 the department of [health and senior services] **elementary**
22 **and secondary education** may notify the attorney general
23 concerning the suspected noncompliance and the attorney
24 general may proceed under section [210.248] **27.060**.

210.256. 1. Any person who violates any provision of
2 sections 210.252 to 210.255, or who for such person or for
3 any other person makes a materially false statement in the
4 notice of parental responsibility required by sections
5 210.254 and 210.255, shall be guilty of an infraction for
6 the first offense and shall be assessed a fine not to exceed
7 two hundred dollars and shall be guilty of a class A
8 misdemeanor for subsequent offenses. In case such guilty
9 person is a corporation, association, institution, or

10 society, the officers thereof who participate in such
11 violation shall be subject to the same penalties.

12 2. In addition to initiating proceedings pursuant to
13 subsection 1 of this section, or in lieu thereof, the
14 prosecuting attorney of the county where the child-care
15 facility is located may file suit for a preliminary and
16 permanent order overseeing or preventing the operation of a
17 child-care facility for violating any provision of section
18 210.252. The injunction shall remain in force until such
19 time as the court determines that the child-care facility is
20 in substantial compliance.

21 3. In cases of imminent bodily harm to children in the
22 care of a child-care facility, the department of [health and
23 senior services] **elementary and secondary education** may
24 apply to the circuit court of the county in which the child-
25 care facility is located for injunctive relief, which may
26 include removing the children from the facility, overseeing
27 the operation of the facility or closing the facility.

210.258. The provisions of this section and section
2 210.259 apply to a child care facility maintained or
3 operated under the exclusive control of a religious
4 organization. Nothing in sections 210.252 to 210.257 shall
5 be construed to authorize the department of [health and
6 senior services] **elementary and secondary education** or any
7 other governmental entity:

8 (1) To interfere with the program, curriculum,
9 ministry, teaching or instruction offered in a child care
10 facility;

11 (2) To interfere with the selection, certification,
12 minimal formal educational degree requirements, supervision
13 or terms of employment of a facility's personnel;

14 (3) To interfere with the selection of individuals
15 sitting on any governing board of a child care facility;

16 (4) To interfere with the selection of children
17 enrolled in a child care facility; or

18 (5) To prohibit the use of corporal punishment.

19 However, the department of **[health and senior services]**
20 **elementary and secondary education** may require the child
21 care facility to provide the parent or guardian enrolling a
22 child in the facility a written explanation of the
23 disciplinary philosophy and policies of the child care
24 facility.

25 Nothing in subdivisions (2) and (3) of this section shall be
26 interpreted to relieve a child care facility of its duties
27 and obligations under section 210.1080, or to interfere with
28 the department's duties and obligations under said section.

210.275. Any program licensed by the department of
2 **[health and senior services] elementary and secondary**
3 **education** pursuant to this chapter providing child care to
4 school-age children that is located and operated on
5 elementary or secondary school property shall comply with
6 the child-care licensure provisions in this chapter; except
7 that, for safety, health and fire purposes, all buildings
8 and premises for any such programs shall be deemed to be in
9 compliance with the child-care licensure provisions in this
10 chapter.

210.1007. 1. The department of **[health and senior**
2 **services] elementary and secondary education** shall **[, on or**
3 **before July 1, 2003, and]** quarterly **[thereafter,]** provide
4 all child-care facilities licensed pursuant to this chapter
5 with a comprehensive list of children's products that have

6 been identified by the Consumer Product Safety Commission as
7 unsafe.

8 2. Upon notification, a child-care facility shall
9 inspect its premises and immediately dispose of any unsafe
10 children's products which are discovered. Such inspection
11 shall be documented by signing and dating the department's
12 notification form in a space designated by the department.
13 Signed and dated notification forms shall be maintained in
14 the facility's files for departmental inspection.

15 3. During regular inspections, the department shall
16 document the facility's maintenance of past signed and dated
17 notification forms. If the department discovers an unsafe
18 children's product, the facility shall be instructed to
19 immediately dispose of the product. If a facility fails to
20 dispose of a product after being given notice that it is
21 unsafe, it shall be considered a violation under the
22 inspection.

23 4. The department may promulgate rules for the
24 implementation of this section. Any rule or portion of a
25 rule, as that term is defined in section 536.010, that is
26 created under the authority delegated in this section shall
27 become effective only if it complies with and is subject to
28 all of the provisions of chapter 536 and, if applicable,
29 section 536.028. This section and chapter 536 are
30 nonseverable and if any of the powers vested with the
31 general assembly pursuant to chapter 536 to review, to delay
32 the effective date or to disapprove and annul a rule are
33 subsequently held unconstitutional, then the grant of
34 rulemaking authority and any rule proposed or adopted after
35 August 28, 2002, shall be invalid and void.

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

3 (1) "Child care provider", a person licensed,
4 regulated, or registered to provide child care within the
5 state of Missouri, including the member or members, manager
6 or managers, shareholder or shareholders, director or
7 directors, and officer or officers of any entity licensed,
8 regulated, or registered to provide child care within the
9 state of Missouri;

10 (2) "Child care staff member", a child care provider;
11 persons employed by the child care provider for
12 compensation, including contract employees or self-employed
13 individuals; individuals or volunteers whose activities
14 involve the care or supervision of children for a child care
15 provider or unsupervised access to children who are cared
16 for or supervised by a child care provider; individuals
17 residing in a [family child care] home **where child care is**
18 **provided** who are [seventeen years of age or older before
19 January 1, 2021, or] eighteen years of age or older [on or
20 after January 1, 2021]; or individuals residing in a [family
21 child care] home **where child care is provided** who are under
22 [seventeen years of age before January 1, 2021, or under]
23 eighteen years of age [on or after January 1, 2021,] and
24 have been certified as an adult for the commission of an
25 offense;

26 (3) "Criminal background check":

27 (a) A Federal Bureau of Investigation fingerprint
28 check;

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

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

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

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

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

41 (4) ["Designated department", the department to which
42 criminal background check results are sent; the department
43 of health and senior services for child care staff members
44 or prospective child care staff members of licensed child
45 care facilities; and the department of social services for
46 child care staff members or prospective child care staff
47 members of a license-exempt child care facility or an
48 unlicensed child care facility registered with the
49 department of social services under section 210.027]

50 **"Department", the department of elementary and secondary**
51 **education;**

52 (5) "Qualifying result" or "qualifying criminal
53 background check", a finding that a child care staff member
54 or prospective child care staff member is eligible for
55 employment or presence in a child care setting described
56 under this section.

57 2. (1) Prior to the employment or presence of a child
58 care staff member in a licensed, **license-exempt, or**
59 **unlicensed registered** child care facility, the child care
60 provider shall request the results of a criminal background
61 check for such child care staff member from the department
62 [of health and senior services].

63 (2) [Prior to the employment or presence of a child
64 care staff member in a license-exempt child care facility or
65 an unlicensed child care facility registered with the
66 department of social services, the child care provider shall

67 request the results of a criminal background check for such
68 child care staff member from the department of social
69 services.

70 **(3)]** A prospective child care staff member may begin
71 work for a child care provider after **receiving** the
72 qualifying result of either a Federal Bureau of
73 Investigation fingerprint check or a search of the Missouri
74 criminal registry or repository with the use of fingerprints
75 **[has been received from the designated department]**; however,
76 pending completion of the criminal background check, the
77 prospective child care staff member shall be supervised at
78 all times by another child care staff member who received a
79 qualifying result on the criminal background check within
80 the past five years.

81 **[(4)] (3)** Any individual who meets the definition of
82 child care provider but is not responsible for the oversight
83 or direction of the child care facility and does not have
84 independent access to the child care facility **[is] shall** not
85 required to request the results of a criminal background
86 check under this section; however, such individual shall be
87 accompanied by an individual with a qualifying criminal
88 background check in order to be present at the child care
89 facility during child care hours.

90 3. The costs of the criminal background check shall be
91 the responsibility of the child care staff member, but may
92 be paid or reimbursed by the child care provider at the
93 provider's discretion. The fees charged for the criminal
94 background check shall not exceed the actual cost of
95 processing and administration.

96 4. Upon completion of the criminal background check,
97 any child care staff member or prospective child care staff
98 member shall be ineligible for employment or presence at a

99 licensed or license-exempt child care facility or an
100 unlicensed child care facility registered with the
101 department [of social services] and shall be disqualified
102 from receipt of state or federal funds for providing child
103 care services either by direct payment or through
104 reimbursement to an individual who receives child care
105 benefits if such person:

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

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

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

114 (4) Is listed as a perpetrator of child abuse or
115 neglect under sections 210.109 to 210.183 or any other
116 finding of child abuse or neglect based on any other state's
117 registry or database; or

118 (5) Has pled guilty or nolo contendere to or been
119 found guilty of:

120 (a) Any felony for an offense against the person as
121 defined in chapter 565;

122 (b) Any other offense against the person involving the
123 endangerment of a child as prescribed by law;

124 (c) Any misdemeanor or felony for a sexual offense as
125 defined in chapter 566;

126 (d) Any misdemeanor or felony for an offense against
127 the family as defined in chapter 568;

128 (e) Burglary in the first degree as defined in 569.160;

129 (f) Any misdemeanor or felony for robbery as defined
130 in chapter 570;

131 (g) Any misdemeanor or felony for pornography or
132 related offense as defined in chapter 573;

133 (h) Any felony for arson as defined in chapter 569;

134 (i) Any felony for armed criminal action as defined in
135 section 571.015, unlawful use of a weapon as defined in
136 section 571.030, unlawful possession of a firearm as defined
137 in section 571.070, or the unlawful possession of an
138 explosive as defined in section 571.072;

139 (j) Any felony for making a terrorist threat as
140 defined in section 574.115, 574.120, or 574.125;

141 (k) A felony drug-related offense committed during the
142 preceding five years; or

143 (l) Any similar offense in any federal, state,
144 municipal, or other court of similar jurisdiction of which
145 the [director of the designated] department has knowledge.

146 5. Household members [seventeen years of age or older
147 before January 1, 2021, or] eighteen years of age or older
148 [on or after January 1, 2021], or household members under
149 [seventeen years of age before January 1, 2021, or under]
150 eighteen years of age [on or after January 1, 2021,] who
151 have been certified as an adult for the commission of an
152 offense, shall be ineligible to maintain a presence at a
153 [facility licensed as a family child care] home **where child**
154 **care is provided** during child care hours if any one or more
155 of the provisions of subsection 4 of this section apply to
156 such members.

157 6. A child care provider may also be disqualified from
158 receipt of state or federal funds for providing child care
159 services either by direct payment or through reimbursement
160 to an individual who receives child care benefits if such
161 person, or any person [seventeen years of age or older
162 before January 1, 2021, or] eighteen years of age or older

163 [on or after January 1, 2021,] residing in the household in
164 which child care is being provided, excluding child care
165 provided in the child's home, has been refused licensure or
166 has experienced licensure suspension or revocation under
167 section 210.221 or 210.496.

168 7. A child care provider shall not be required to
169 submit a request for a criminal background check under this
170 section for a child care staff member if:

171 (1) The staff member received a qualifying criminal
172 background check within five years before the latest date on
173 which such a submission may be made and while employed by or
174 seeking employment by another child care provider within
175 Missouri;

176 (2) The [department of] **departments of elementary and**
177 **secondary education**, health and senior services, or [the
178 department] of social services provided to the first
179 provider a qualifying criminal background check result,
180 consistent with this section, for the staff member; and

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

185 8. (1) The department [processing] **shall process** the
186 request for a criminal background check for any prospective
187 child care staff member or child care staff member [shall do
188 so] as expeditiously as possible, but not to exceed forty-
189 five days after the date on which the provider submitted the
190 request.

191 (2) The department shall provide the results of the
192 criminal background check to the child care provider in a
193 statement that indicates whether the prospective child care
194 staff member or child care staff member is eligible or

195 ineligible for employment or presence at the child care
196 facility or receipt of state or federal funds for providing
197 child care services either by direct payment or through
198 reimbursement to an individual who receives child care
199 benefits. The department shall not reveal to the child care
200 provider any disqualifying crime or other related
201 information regarding the prospective child care staff
202 member or child care staff member.

203 (3) If such prospective child care staff member or
204 child care staff member is ineligible for employment or
205 presence at the child care facility, the department shall,
206 when providing the results of criminal background check,
207 include information related to each disqualifying crime or
208 other related information, in a report to such prospective
209 child care staff member or child care staff member, along
210 with information regarding the opportunity to appeal under
211 subsection 9 of this section.

212 (4) If a prospective child care provider or child care
213 provider has been denied state or federal funds by the
214 department [of social services] for providing child care, he
215 or she may appeal such denial to the department [of social
216 services] **pursuant to section 210.027.**

217 9. (1) The prospective child care staff member or
218 child care staff member may appeal a finding of
219 ineligibility for employment or presence at a child care
220 facility in writing to the department [that made the
221 determination of ineligibility] to challenge the accuracy or
222 completeness of the information contained in his or her
223 criminal background check if his or her finding of
224 ineligibility is based on one or more of the following
225 offenses:

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

227 (b) Felony child abuse or neglect;
228 (c) A felony crime against children, including child
229 pornography;
230 (d) Felony spousal abuse;
231 (e) A felony crime involving rape or sexual assault;
232 (f) Felony kidnapping;
233 (g) Felony arson;
234 (h) Felony physical assault or battery;
235 (i) A violent misdemeanor offense committed as an
236 adult against a child, including the offense of child abuse,
237 child endangerment, or sexual assault, or a misdemeanor
238 offense involving child pornography; or
239 (j) Any similar offense in any federal, state,
240 municipal, or other court.

241 (2) If a finding of ineligibility is based on an
242 offense not provided for in subdivision (1) of this
243 subsection, the prospective child care staff member or child
244 care staff member may appeal to challenge the accuracy or
245 completeness of the information contained in his or her
246 criminal background check or to offer information mitigating
247 the results and explaining why an eligibility exception
248 should be granted.

249 (3) The **written** appeal shall be filed with the
250 department [that made the determination] within ten days
251 from the mailing of the notice of ineligibility. [Such] **The**
252 department shall attempt to verify the accuracy of the
253 information challenged by the individual, including making
254 an effort to locate any missing disposition information
255 related to the disqualifying offense. After the department
256 verifies the accuracy of the information challenged by the
257 individual, the department shall [forward the appeal to the
258 child care background screening review committee established

259 in subdivision (4) of this subsection. The child care
260 background screening review committee shall] make a final
261 decision on the written appeal, and such decision shall be
262 made in a timely manner. Such decision shall be considered
263 a noncontested final agency decision by the department [that
264 made the determination of ineligibility under this section
265 and], appealable under section 536.150. Such decision shall
266 be appealed within thirty days of the mailing of the
267 decision.

268 [(4) There is hereby established a "Child Care
269 Background Screening Review Committee", which shall consist
270 of the directors of the department of health and senior
271 services and the department of social services or the
272 directors' designee or designees.]

273 (5) Any decision by the child care background
274 screening review committee to grant an eligibility exception
275 as allowed in this section shall only be made upon the
276 approval of all committee members.]

277 10. [The department of health and senior services and
278 the department of social services are authorized to enter
279 into any agreements necessary to facilitate the sharing of
280 information between the departments for the enforcement of
281 this section including, but not limited to, the results of
282 the criminal background check or any of its individual
283 components.]

284 11.] Nothing in this section shall prohibit [either]
285 the department [of health and senior services or the
286 department of social services] from requiring more frequent
287 checks of the family care safety registry established under
288 section 210.903 or the central registry for child abuse
289 established under section 210.109 in order to determine
290 eligibility for employment or presence at the child care

291 facility or receipt of state or federal funds for providing
292 child care services either by direct payment or through
293 reimbursement to an individual who receives child care
294 benefits.

295 [12.] 11. The department [of health and senior
296 services and the department of social services] may [each]
297 adopt emergency rules to implement the requirements of this
298 section. Any rule or portion of a rule, as that term is
299 defined in section 536.010, that is created under the
300 authority delegated in this section shall become effective
301 only if it complies with and is subject to all of the
302 provisions of chapter 536 and, if applicable, section
303 536.028. This section and chapter 536 are nonseverable and
304 if any of the powers vested with the general assembly
305 pursuant to chapter 536 to review, to delay the effective
306 date, or to disapprove and annul a rule are subsequently
307 held unconstitutional, then the grant of rulemaking
308 authority and any rule proposed or adopted after August 28,
309 2018, shall be invalid and void.

310 [13.] 12. The provisions of this section shall not
311 apply to any child care facility, as defined in section
312 210.201, maintained or operated under the exclusive control
313 of a religious organization, as described in subdivision
314 (17) of subsection 1 of section 210.211, unless such
315 facility is a recipient of federal funds for providing care
316 for children, except for federal funds for those programs
317 that meet the requirements for participation in the Child
318 and Adult Care Food Program under 42 U.S.C. Section 1766.

2 [210.199. Any applicant for a grant or
3 contract who offers early childhood development,
4 education or care programs and who receives
5 funds derived from an appropriation to the
6 department of elementary and secondary education
pursuant to paragraph (d) of subdivision (3) of

7 section 313.835 shall be licensed by the
8 department of health and senior services
9 pursuant to sections 210.201 to 210.259 prior to
10 opening of the facility. The provisions of this
11 section shall not apply to any grant or contract
12 awarded to a request for proposal issued prior
13 to August 28, 1999.]

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