

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 565

89TH GENERAL ASSEMBLY

Reported from the Committee on Public Health and Welfare, March 12, 1998, with recommendation that the Senate Committee Substitute do pass.

S2249.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 210.211, 210.245, 210.251, 210.252, 210.256, 210.516 and 610.120, RSMo 1994, and sections 43.540 and 210.221, RSMo Supp. 1997, relating to the care or supervision of children, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 210.211, 210.245, 210.251, 210.252, 210.256, 210.516 and 610.120, RSMo 1994, and sections 43.540 and 210.221, RSMo Supp. 1997, are repealed and nineteen new sections enacted in lieu thereof to be known as sections 43.540, 210.211, 210.221, 210.245, 210.251, 210.252, 210.256, 210.301, 210.303, 210.305, 210.307, 210.309, 210.311, 210.312, 210.314, 210.317, 210.319, 210.516 and 610.120, to read as follows:

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

(1) "Criminal record review", a request to the highway patrol for information concerning any criminal history record for a felony or misdemeanor;

(2) "Patient or resident", a person who by reason of aging, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(3) "Patrol", the Missouri state highway patrol;

(4) "Provider", any licensed day care home, **or day care home registered by the division of family services**, licensed day care center, licensed child placing agency, licensed

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

residential care facility for children, licensed group home, licensed **or registered** foster family group home, licensed foster family home or any operator licensed pursuant to chapter 198, RSMo, any employer of nurses or nursing assistants for temporary or intermittent placement in health care facilities or any entity licensed pursuant to chapter 197, RSMo, **or employment agency that refers a child care worker to parents or guardians as defined in section 289.005, RSMo;**

(5) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. Upon receipt of a written request from a private investigatory agency **or a copy of the application for employment signed by the person who is the subject of the request**, a youth service agency or a provider, with the written consent of the applicant, the highway patrol shall conduct a criminal record review of an applicant for a paid or voluntary position with the agency or provider if such position would place the applicant in contact with minors, patients or residents.

3. Any request for information made pursuant to the provisions of this section shall be on a form provided by the highway patrol and shall be signed by the person who is the subject of the request **or accompanied by a copy of the application for employment signed by the person who is the subject of the request.**

4. The patrol shall respond in writing to the youth service agency or provider making a request for information pursuant to this section and shall inform such youth service agency or provider of the nature of the offense, and the date, place and court **of disposition.** Notwithstanding any other provision of law to the contrary, the youth service agency or provider making such request shall have access to all records of arrests resulting in an adjudication where the applicant was found guilty or entered a plea of guilty or nolo contendere in a prosecution pursuant to chapter 565, [RSMo, sections 566.010 to 566.141, RSMo,] **566, 568 or 573, RSMo, or for a class A misdemeanor or a felony,** or under the laws of any state or the United States for offenses described in [sections 566.010 to 566.141, RSMo, or] chapter 565, [RSMo,] **566, 568 or 573, RSMo, or for any felony** during the period of any probation imposed by the sentencing court.

5. Any information received by a provider or a youth services agency pursuant to this section shall be used solely for the provider's or youth service agency's internal purposes in determining the suitability of an applicant or volunteer. The information shall be confidential and any person who discloses the information beyond the scope allowed in this section is guilty of a class A misdemeanor. The patrol shall inform, in writing, the provider or youth services agency of the requirements of this subsection and the penalties provided in this subsection at the time it releases any information pursuant to this section.

6. Any application described in subsection 2 of this section shall contain

language on a prominent part of the application which states that by signing the application, the applicant is consenting to a criminal record review conducted by the state highway patrol. In the alternative, separate written information may be provided to the applicant, before the application is signed, which clearly informs the applicant that by signing the application, the applicant is consenting to a criminal record review.

7. In addition to the provisions of subsection 6, the provider shall provide written information to the applicant before the applicant signs the application, which describes the information obtainable and the process involved in conducting a criminal record review. The department of health and the department of social services may jointly promulgate rules in accordance with chapter 536, RSMo, relating to the preparation of written information pursuant to this subsection.

210.211. 1. It shall be unlawful for any person to establish, maintain or operate a child care facility for children, or to advertise or hold himself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children. For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

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

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

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

(5) Any nursery school;

[(5)] **(6)** Any child care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child care services, enters into an arrangement with a religious organization for the maintenance or operation of a child care facility, the facility is not under the exclusive control of the religious organization; and

[(6)] **(7)** Any residential facility or day program licensed by the department of mental health under sections 630.705 to 630.760, RSMo, which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo.

2. Notwithstanding the provisions of subsection 1 of this section, no child care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children **except for federal funds for those programs that meet the requirements for participation in the Child and Adult Care Food Program, 42 U.S.C. 1766**. Grants to parents for child care under this act shall not be construed to be funds received by the facility.

210.221. 1. The department of health shall have the following powers and duties:

(1) After inspection, to grant licenses to persons to operate child care facilities if satisfied as to the good character and intent of the applicant and that such applicant is qualified and equipped to render care or service conducive to the welfare of children, and to renew the same when expired. No license shall be granted for a term exceeding two years. Each license shall specify the kind of child care services the licensee is authorized to perform, the number of children that can be received or maintained, and their ages and sex;

(2) To inspect the conditions of the homes and other places in which the applicant operates a child care facility, inspect their books and records, premises and children being served, examine their officers and agents, [and] **deny, suspend, place on probation** or revoke the license of such persons as fail to obey the provisions of sections 210.201 to 210.245 or the rules and regulations made by the department of health. **The director also may revoke or suspend a license when the licensee fails to renew or surrenders the license;**

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

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

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

3. The department shall deny, suspend or revoke a license if it receives official written notice that the local governing body has found that license is prohibited by any

local law related to the health and safety of children. The department may after inspection find the licensure, denial of licensure, suspension or revocation may be in the best interest of the state.

[3.] **4.** No rule or portion of a rule promulgated under the authority of sections 210.201 to 210.245 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

210.245. **1.** Any person who violates any provision of sections 210.201 to 210.245, or who for [himself] **such person** or for any other person makes materially false statements in order to obtain a license or the renewal thereof [under] **pursuant to** sections 210.201 to 210.245, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association, institution or society, the officers thereof who participate in such misdemeanor shall be subject to the penalties provided by law.

2. If the department of health proposes to deny, suspend or revoke a license, the department of health shall serve upon the applicant or licensee written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or licensee shall have thirty days to request in writing a hearing before the administrative hearing commission. If no written request for a hearing is received by the department of health within thirty days of the applicant or licensee's receipt of the notice, the proposed discipline shall take effect thirty-one days from the date the original notice was received by the applicant or licensee. If the applicant or licensee makes a written request for a hearing, the department of health shall file a complaint with the administrative hearing commission within ninety days of receipt of the request for a hearing. The complaint shall comply with the laws and regulations for actions brought before the administrative hearing commission.

3. The department of health may issue letters of censure or warning and may place a licensee on probation without formal notice or hearing.

4. The department of health may suspend any license simultaneously with the notice of the proposed action to be taken in subsection 2 of section 210.245, if the department of health finds that there is a threat of imminent bodily harm to the children in care. The notice of suspension shall include the basis of the suspension and the appeal rights of the licensee. The licensee may appeal the decision to suspend the license to the department of health. The appeal must be filed within ten days from the receipt of the notice of appeal. A hearing shall be conducted by the department of health within ten days from the date the appeal is filed. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department of health, dissolved by a court of competent jurisdiction

or stayed by the administrative hearing commission.

5. In addition to initiating proceedings [under] **pursuant to** subsection 1 of this section, or in lieu thereof, the prosecuting attorney of the county where the child care facility is located may file suit for a preliminary and permanent order overseeing or preventing the operation of a child care facility for violating any provision of sections 210.201 to 210.245. The order shall remain in force until such a time as the court determines that the child care facility is in substantial compliance. If the prosecuting attorney refuses to act or fails to act [within thirty days of] **after** receipt of notice from the department of health, the department of health may request that the attorney general seek an injunction of the operation of such child care facility.

[3.] **6.** In cases of imminent bodily harm to children in the care of a child care facility, the department may file suit in the circuit court of the county in which the child care facility is located for injunctive relief, which may include removing the children from the facility, overseeing the operation of the facility or closing the facility.

210.251. 1. By January 1, 1994, financial incentives shall be provided by the department of health through the child development block grant and other public moneys for child care facilities wishing to upgrade their standard of care and which meet quality standards.

2. The department of health shall make federal funds available to licensed **and inspected** child care centers pursuant to federal law as set forth in the Child and Adult Food Program, 42 U.S.C. 1766.

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

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

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

4. The department of health shall administer the provisions of sections 210.252 to 210.256,

with the cooperation of the state fire marshal, local fire departments and local health agencies.

5. The department of health shall promulgate rules and regulations to implement and administer the provisions of sections 210.252 to 210.256. Such rules and regulations shall provide for the protection of children in all child care facilities whether or not such facility is subject to the licensing provisions of sections 210.201 to 210.245.

210.256. 1. Any person who violates any provision of sections 210.252 to 210.255, or who for [himself] **such person** or for any other person makes a materially false statement in the notice of parental responsibility required by sections 210.254 and 210.255, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association, institution, or society, the officers thereof who participate in such violation shall be subject to the same penalties.

2. In addition to initiating proceedings [under] **pursuant to** subsection 1 of this section, or in lieu thereof, the prosecuting attorney of the county where the child care facility is located may file suit for a preliminary and permanent order overseeing or preventing the operation of a child care facility [for violating any provision of section 210.252] **or the department may request that the attorney general seek an injunction to prevent the operation of the child care facility for violating any provision of sections 210.252 to 210.259 or the rules promulgated by the department thereunder.** The injunction shall remain in force until such a time as the court determines that the child care facility is in substantial compliance.

3. In cases of imminent bodily harm to children in the care of a child care facility, the department of health may apply to the circuit court of the county in which the child care facility is located for injunctive relief, which may include removing the children from the facility, overseeing the operation of the facility or closing the facility.

210.301. 1. As used in sections 210.301 to 210.319, the following terms mean:

(1) "Careline applicant", a person who meets these conditions:

(a) Has voluntarily submitted the information required to determine the person's eligibility for entry in the careline registry; and

(b) Is employed by a provider, as defined in section 43.540, RSMo;

(2) "Central repository", shall have the same meaning as "central repository" defined in section 43.500, RSMo;

(3) "Child care agency", shall mean providers as defined in section 43.540, RSMo, exercising temporary supervision over a child or providing or having care or custody of child; however, the term "child care agency" shall not apply to those providers who are registered under the division of family services as a registered day care home and who provide care only for their grandchildren, nieces, nephews, or siblings;

(4) "Child care worker", shall include persons working for providers as defined

in section 43.540, RSMo, who are assigned to provide or assist with the care or treatment for or supervision over minors; however, the term "child care worker" shall not apply to individuals working for providers who are registered under the division of family services as a registered day care home and who provide care only for their grandchildren, nieces, nephews, or siblings;

(5) "Criminal history", shall include any conviction or a plea of guilty to a misdemeanor or felony charge and shall also include any suspended imposition of sentence or a suspended execution of sentence;

(6) "Criminal history record information", shall have the same meaning as "criminal history record information" defined in section 43.500, RSMo;

(7) "Criminal record review", shall have the same meaning as "criminal record review" defined in section 43.540, RSMo;

(8) "Department", the department of health;

(9) "Patrol", the Missouri state highway patrol;

(10) "Registered careline provider", a careline applicant who has met the provisions of sections 210.301 to 210.319.

2. A careline registry and hotline is hereby established in the department to register careline providers for the purpose of protection of children. Any person other than child care workers or employees at a child care agency where such person would have direct contact with minors may provide child care services, including but not limited to casual services, without registration as established in sections 210.301 to 210.319; however, such persons may voluntarily apply for careline registration. When a person submits a completed careline application supplied by the department, the department shall enter in the careline registry the person's name, identification card number pursuant to subsection 3 of this section and an indicator that the person has submitted the application. The department shall coordinate with the department of social services to conduct a search of the central registry, established under section 210.145, to determine if the applicant has a probable cause finding of child abuse or neglect pursuant to section 210.145.

3. Notwithstanding any other provision of law to the contrary, the department shall initiate a criminal record review pursuant to section 43.540, RSMo, of a prospective careline applicant if the applicant possesses any one of the following identification cards:

(1) A valid Missouri driver's license;

(2) A valid identification card issued by the state department of revenue;

(3) A valid alien registration card; or

(4) A valid numbered photo identification card issued by an agency of the state in which the applicant last resided.

210.303. 1. The department shall consider and determine whether the careline applicant shall be registered. If no reported information is found which would disqualify the applicant as a child care provider, the department shall enter that finding in the person's record in the careline registry and shall notify the person of the action.

2. A careline applicant or registered careline provider shall not be registered if, in any of the searches or in any report that is received by the department subsequent to those searches, any of the following information is found:

(1) The person has been convicted of a crime relevant to the person's occupation as a child care provider or there is probable cause information that the person has committed child abuse or neglect;

(2) The person has furnished or made any misleading or false statement or report of a material fact or practiced or attempted to practice any fraud or deception in the person's application or reports to the department; or

(3) The review discloses conduct which demonstrates that initial or continuing registration of the person would be adverse to the health and safety of children in this state.

3. The department shall notify any such person in writing of the determination that he or she is disqualified from inclusion and the reason thereof. Records concerning the person shall be removed from the careline registry immediately.

4. If the department denies inclusion in the careline registry pursuant to subsection 2 of this section, its written notification also shall advise the person of the right to appeal the denial. Notification of an appeal shall be filed in writing at the office of the director of the department of health. An administrative appeal shall be set within thirty days of the receipt of the notification, and a decision shall be made within sixty days. If the appeal is decided in favor of the disqualified person, the records shall be restored in the careline registry. If the appeal is decided against the disqualified person, that person may seek judicial review of such decision pursuant to sections 536.100 to 536.150, RSMo.

210.305. 1. The department shall require periodic re-registration of careline providers by rule.

2. The department, in coordination with the department of social services, shall compare the list of registered careline providers against the central registry, established under section 210.143 on a regular basis. The department shall review the information reported from this comparison to determine if a currently registered careline provider should be disqualified. The department of health and the department of social services may enter into an interagency agreement to determine procedures and financing of the provision and updating of information for comparison of the

careline registry with the central registry, and for searches of the central registry performed under subsection 2 of section 210.301.

3. The patrol and the department may enter into an interagency agreement to determine procedures and financing of the provision and continual updating of information on criminal convictions to the careline registry pursuant to the actions required in subsections 2 to 6 of section 210.303.

210.307. Notwithstanding any provision of law to the contrary, state officials or employees shall not be liable for any damages caused by their conduct in connection with a criminal record review pursuant to sections 210.301 to 210.319 except for intentional acts or gross negligence.

210.309. The department shall:

(1) Establish and maintain a careline hotline service, which may be toll-free, to allow parents and guardians, employment agencies, child care referral groups and registries, child care programs that do not receive state subsidies and are exempt from state licensing laws and others to determine if a child care provider is a careline applicant or a registered careline provider;

(2) Develop a statewide promotion plan for the purposes of publicizing the existence, benefits, and methods of accessing the careline hotline for both parents and child care providers, and distribute careline applications statewide;

(3) Collect data for the purposes of evaluations conducted under section 210.319;

(4) Accept other public and private financial support for the careline registry and careline hotline;

(5) Ensure that criminal record review and central registry information is continually maintained and updated in the careline registry; and

(6) Ensure that information obtained from the department under sections 210.301 to 210.319 shall be confidential and disseminated only to the person who is the subject of the criminal record review and to the participants in a hiring or approval process upon written request from the careline applicant or registered careline provider. Information obtained from the department under sections 210.301 to 210.319 shall not be used for any purpose other than that for which it was disseminated.

210.311. It shall be a class B misdemeanor for a person to falsely represent or present oneself as a careline applicant or a registered careline provider.

210.312. It shall be a class B misdemeanor for a person to fail to disclose in a careline application a conviction for a criminal offense or the existence of substantiated information that the person has committed child abuse or neglect.

210.314. 1. (1) Except as provided in subdivision (2) of this subsection, beginning June 1, 1999, any applicant for the position of child care worker or other employee at a child care agency where such person would have direct contact with

minors who professes to be a registered careline provider, as defined in section 210.301, shall provide documentation to establish that the person is a careline applicant as defined in section 210.301, or shall, prior to employment by a child care agency, disclose to the administrators of the child care agency the applicant's criminal history, whether the applicant is listed in the central registry as provided in section 198.032, RSMo, or section 210.110, and whether the applicant is listed on the employee disqualification list as provided in section 660.315, RSMo.

(2) Any person employed by a child care agency on June 1, 1999, may be a registered careline provider, as defined in section 210.301, or shall disclose to the administrators of the child care agency by July 1, 1999, the person's criminal history, whether the person is listed in the central registry as provided in section 198.032, RSMo, or section 210.110, and whether the person is listed on the employee disqualification list as provided in section 660.315, RSMo.

(3) Beginning June 1, 1999, any child care provider or child care worker who is not qualified to meet the requirements for a registered careline provider shall not be eligible for state or federal direct reimbursements.

2. (1) Within three business days from the date a person is employed as a child care worker for a position where such person would have direct contact with minors, a person who operates or administers a child care agency shall:

(a) Contact the careline hotline service established and maintained by the department of health, pursuant to section 210.309, to determine whether such person is a registered careline provider; or

(b) Apply for a copy of the person's criminal history from the Missouri highway patrol pursuant to section 43.540, RSMo, and shall inquire whether the person is listed in the central registry as provided in section 198.032, RSMo, or section 210.110, whether the person is listed in the employee disqualification list as provided in section 660.315, RSMo, or with any other source allowed by law.

(2) A child care provider, as defined in section 43.540, RSMo, shall disclose to the parent or guardian of a child, before the child is placed under the temporary supervision of the child care provider, in the care and custody of the child care provider or, if the child care provider is an employment agency as defined in subdivision (5) of section 289.005, RSMo, before making a placement of a child care worker:

(a) Factual information about the careline program and registry; and

(b) Whether the provider or child care worker is or is not either a careline applicant or a registered careline provider.

3. A person, other than a person denied employment or dismissed under sections 210.301 to 210.319 who in good faith denies employment to an individual or dismisses

an individual from employment under sections 210.301 to 210.319, who testifies or participates in an investigation or an administrative or a judicial proceeding arising from sections 210.301 to 210.319, the central registry as provided in section 198.032, RSMo, or section 210.110, or the employee disqualification list as provided in section 660.315, RSMo, is immune from both civil and criminal liability arising from those actions unless such person created the report in bad faith or with malicious purpose.

4. Each child care agency shall maintain a personnel record for each child care worker and all other employees of the child care agency that includes the child care worker's or other employee's criminal history and other information required by this section. The personnel records of each facility shall be available for inspection by the department of social services, the department of health, the prosecuting attorney of the county where the child care agency is located, and the attorney general, as provided in section 210.245 to assure compliance with this section.

210.317. The department shall, in consultation with representatives of private industry, parents, child care resource and referral agencies and the pediatric health sector, review recommendations concerning the operation of the careline registry and telephone service.

210.319. 1. The department shall use a competitive process to select and contract with an independent consultant for the purpose of evaluating the careline. The evaluation shall at a minimum address the following:

(1) The extent to which the careline's registration system identifies persons seeking child care employment who have a reported criminal conviction or about whom there is substantiated child abuse information;

(2) The level of participation by parents, guardians and child care providers;

(3) The total public cost for investigation, registration or denial of registration per applicant; and

(4) Obstacles to maximizing the benefits of the careline registry.

2. The department shall develop a schedule for transmitting periodic evaluation reports to the general assembly, beginning on or before September thirtieth of the second calendar year in which the program established by sections 210.301 to 210.319 is in operation. The final report shall be submitted to the general assembly on or before January first of the fifth year in which the program is in operation.

210.516. 1. It shall be unlawful for any person to establish, maintain, or operate a foster home, residential care facility, or child placing agency, or to advertise or hold himself or herself out as being able to perform any of the services as defined in sections 210.481 to 210.536, without having in full force and effect a license issued by the division; provided, however, that nothing in sections 210.481 to 210.536 shall apply to:

(1) Any residential care facility operated by a person in which the care provided is in

conjunction with an educational program for which a tuition is charged and completion of the program results in meeting requirements for a diploma recognized by the state department of elementary and secondary education;

(2) Any camp, hospital, sanitarium, or home which is conducted in good faith primarily to provide recreation, medical treatment, or nursing or convalescent care for children;

(3) Any person who receives free of charge, and not as a business, for periods of time not exceeding ninety consecutive days, the child of personal friends of such person as an occasional and personal guest, and who receives custody of no other unrelated child;

(4) Any child placing agency operated by the department of mental health or any foster home or residential care facility operated or licensed by the department of mental health [under] **pursuant to** sections 630.705 to 630.760, RSMo, which provides care, treatment, and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo;

(5) Any foster home arrangement established and operated by any well-known religious order or church and any residential care facility or child placement agency operated by such organization; or

(6) Any institution or agency maintained or operated by the state, city or county.

2. Residential care facilities which are exempt from licensure as set forth in subdivision (5) of subsection 1 of this section shall register with the department of elementary and secondary education which shall provide copies of such registration to the department of health and shall be subject to all local health and fire safety requirements and where local fire standards do not exist then state fire marshall standards shall apply.

[2.] **3.** The division shall not require any foster home, residential care facility, or child placing agency which [believes itself] **is** exempt from licensure as provided in subsection 1 of this section to submit any documentation in support of the claimed exemption; however [said] **such** foster home, residential care facility, or child placing agency is not precluded from furnishing such documentation if it chooses to do so.

610.120. 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo, **and sections 210.301 to 210.319, RSMo.** They shall be available to the sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes, facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo, the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo, and federal agencies for purposes of prosecution, sentencing,

parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

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