

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 557 & 560
101ST GENERAL ASSEMBLY

1354H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 210, RSMo, by adding thereto fifteen new sections relating to the protection of children, with penalty provisions and an emergency clause.

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

Section A. Chapter 210, RSMo, is amended by adding thereto fifteen new sections, to
2 be known as sections 210.143, 210.1250, 210.1253, 210.1256, 210.1259, 210.1262, 210.1263,
3 210.1264, 210.1265, 210.1268, 210.1271, 210.1274, 210.1280, 210.1283, and 210.1286, to read
4 as follows:

**210.143. 1. The children's division; law enforcement, including the state technical
2 assistance team; or prosecuting attorney may petition the circuit court for an order
3 directing an exempt-from-licensure residential care facility, as those terms are defined
4 under section 210.1253, that is the subject of an investigation of child abuse or neglect to
5 present the child at a place and time designated by the court to a children's division worker
6 for an assessment of the child's health, safety, and well-being.**

7 **2. The court shall enter an order under this section if:**

8 **(1) The court determines that there is reasonable suspicion to suspect that the child
9 has been abused or neglected and the residential care facility does not voluntarily provide
10 access to the child;**

11 **(2) The assessment is reasonably necessary for the completion of an investigation
12 or the collection of evidence; and**

13 **(3) Doing so is in the best interest of the child.**

14 **3. If the court enters an order to produce the child under this section, the court may
15 expand the order to produce other children in the care of the residential care facility upon
16 a reasonable suspicion that such children may have been abused or neglected.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **4. The petition and order may be made on an ex parte basis if it is reasonable to**
18 **believe that providing notice may place the child at risk for further abuse or neglect, if it**
19 **is reasonable to believe that providing notice may cause the child to be removed from the**
20 **state of Missouri or the jurisdiction of the court, or if it is reasonable to believe that**
21 **evidence relevant to the investigation will be unavailable if the ex parte order is not**
22 **entered.**

23 **5. Any person served with a subpoena, petition, or order under this section shall**
24 **not be required to file an answer, but may file a motion for a protective order or other**
25 **appropriate relief. The motion shall be filed at or before the time for production or**
26 **disclosure set out in the subpoena or order. The motion shall be in writing, but it may be**
27 **informal and no particular form shall be required. The clerk shall serve a copy of the**
28 **motion on the director of the children's division and any agency who applied for the order.**
29 **The court shall expedite a hearing on the motion and shall issue its decision no later than**
30 **one business day after the date the motion is filed. The court may review the motion in**
31 **camera and stay implementation of the order once for up to three days. The in camera**
32 **review shall be conducted on the record, but steps shall be taken to protect the identity of**
33 **the child. Any information that may reveal the identity of a hotline reporter shall not be**
34 **disclosed to anyone in any proceeding under this subsection unless otherwise allowed by**
35 **law.**

36 **6. The petition for an order under this section shall be filed in the juvenile or family**
37 **court that has judicial custody of the child under section 211.031 or in the circuit court of**
38 **the county:**

39 **(1) Where the child resides;**

40 **(2) Where the child may be found;**

41 **(3) Where the residential care facility is located;**

42 **(4) Where the alleged perpetrator of the child abuse or neglect resides or may be**
43 **found;**

44 **(5) Where the subject of the subpoena may be located or found; or**

45 **(6) Of Cole if none of the other venue provisions of this subsection apply.**

46 **7. The court shall expedite all proceedings under this section so as to ensure the**
47 **safety of the child, the preservation of relevant evidence, that child abuse and neglect**
48 **investigations may be completed within statutory time frames, and that due process is**
49 **provided to the parties involved.**

50 **8. Any person who knowingly violates this section shall be guilty of a class A**
51 **misdemeanor.**

52 **9. The time frames for the children's division to complete its investigation and**
53 **notify the alleged perpetrator of its decision set forth in sections 210.145, 210.152, and**
54 **210.183 shall be tolled from the date that the division files a petition for a subpoena until**
55 **the information is produced in full, until such subpoena is withdrawn, or until a court of**
56 **competent jurisdiction quashes such subpoena.**

210.1250. Sections 210.1250 to 210.1286 shall be known and may be cited as the
2 **"Residential Care Facility Notification Act".**

210.1253. As used in sections 210.1250 to 210.1286, unless the context clearly
2 **provides otherwise, the following terms mean:**

- 3 **(1) "Child", a person who is under eighteen years of age;**
- 4 **(2) "Department", the department of social services;**
- 5 **(3) "Director", a person who is responsible for the operation of the residential care**
6 **facility;**
- 7 **(4) "Exempt-from-licensure" or "license-exempt", a residential care facility that**
8 **is not required to be licensed under section 210.516;**
- 9 **(5) "Person", an individual, partnership, organization, association, or corporation;**
- 10 **(6) "Residential care facility", any place, facility, or home operated by any person**
11 **who receives children who are not related to the operator and whose parent or guardian**
12 **is not a resident of the same facility and that provides such children with supervision, care,**
13 **lodging, and maintenance for twenty-four hours a day, with or without transfer of custody.**

210.1256. 1. The department shall be the notification agency for all license-exempt
2 **residential care facilities, and the department shall fulfill the duties and responsibilities of**
3 **the provisions of sections 210.1250 to 210.1286.**

4 **2. A residential care facility shall allow parents or guardians of children in the**
5 **residential care facility unencumbered access to the children in the residential care facility**
6 **without requiring prior notification to the residential care facility.**

7 **3. A residential care facility shall provide for adequate food, clothing, shelter,**
8 **medical care, and other care necessary to provide for the child's physical, mental, or**
9 **emotional health or development.**

210.1259. 1. The director of any residential care facility shall provide the required
2 **notification in accordance with sections 210.1250 to 210.1286 before such operator shall**
3 **accept any children.**

4 **2. All residential care facilities operating on the effective date of sections 210.1250**
5 **to 210.1286 shall register accordingly within three months after the effective date of**
6 **sections 210.1250 to 210.1286.**

7 **3. The provisions of sections 210.1250 to 210.1286 shall not apply to any residential**
8 **care facility that is already licensed so long as the license, registration, or monitoring under**
9 **which such facility already operates requires of that facility all requirements provided**
10 **under sections 210.1250 to 210.1286.**

210.1262. The notification shall be filed by the director or his or her designee of the
2 **residential care facility to the department on forms provided by the department and shall**
3 **contain the following information:**

4 **(1) Name, street address, mailing address, and phone number of the residential care**
5 **facility;**

6 **(2) Name of the director, owner, operator, all staff members, volunteers, and any**
7 **individual eighteen years of age or older who resides at or on the property of the residential**
8 **care facility;**

9 **(3) Name and description of the agency or organization operating the residential**
10 **care facility, including a statement as to whether the agency or organization is**
11 **incorporated;**

12 **(4) Name and address of the sponsoring organization of the residential care facility,**
13 **if applicable;**

14 **(5) School or schools attended by the children served by the residential care facility;**

15 **(6) Fire and safety inspection certificate;**

16 **(7) Local health department inspection certificate; and**

17 **(8) Proof that medical records are maintained for each child.**

210.1263. 1. In addition to the information required under section 210.1262, a
2 **residential care facility shall apply for participation in the Missouri volunteer and**
3 **employee criminal history service (VECHS) program, administered by the Missouri state**
4 **highway patrol under the National Child Protection Act, as amended, and upon acceptance**
5 **into such program, conduct fingerprint background checks.**

6 **2. (1) The residential care facility shall provide to the department proof of either**
7 **a Federal Bureau of Investigation fingerprint check or a search of the Missouri criminal**
8 **registry or repository, with the use of fingerprints, through the use of a clearance letter,**
9 **accompanied with an application developed by the department for the director, an owner,**
10 **an operator, all staff members and volunteers, any person eighteen years of age or older**
11 **who resides at or on the property of the residential care facility, or any person who has**
12 **unsupervised contact with a resident of the residential care facility.**

13 **(2) Upon receipt of an application, the department shall conduct a search of the**
14 **following registries, repositories, and databases in Missouri, the states where the**
15 **individuals described in subdivision (1) of this subsection reside if not in Missouri, and**

16 each state where the individuals described in subdivision (1) of this subsection resided
17 during the preceding five years:

18 (a) The state criminal registry or repository, with the use of fingerprints being
19 required in the state where the individual resides;

20 (b) The state sex offender registry or repository; and

21 (c) The state-based child abuse and neglect registry and database.

22 (3) The department shall immediately notify the director or his or her designee of
23 the ineligibility of any staff member, volunteer, person eighteen years of age or older who
24 resides at or on the property of the residential care facility, or person who has
25 unsupervised contact with a resident of the residential care facility.

26 3. Upon completion of the criminal background check under subsection 2 of this
27 section, any residential care facility staff member, volunteer, person eighteen years of age
28 or older who resides at or on the property of the facility, or person who has unsupervised
29 contact with a resident of the residential care facility shall be ineligible for employment or
30 presence at the residential care facility if the staff member, volunteer, person eighteen
31 years of age or older who resides at or on the property of the facility, or person who has
32 unsupervised contact with a resident of the facility:

33 (1) Refuses to consent to the criminal background check as described in subsection
34 2 of this section;

35 (2) Knowingly makes a materially false statement in connection with the criminal
36 background check as described in subsection 2 of this section;

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

39 (4) Is listed as a perpetrator of child abuse or neglect under sections 210.109 to
40 210.183 or any other finding of child abuse or neglect based on any other state's registry
41 or database; or

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

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

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

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

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

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

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

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

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

54 (i) Any felony for armed criminal action as defined in section 571.015, unlawful use
55 of a weapon as defined in section 571.030, unlawful possession of a firearm as defined in
56 section 571.070, or the unlawful possession of an explosive as defined in section 571.072;

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

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

60 (l) Any offense in any federal or state court, or other court of general jurisdiction
61 of which the director of the designated department has knowledge.

62 4. Criminal background checks shall be valid for a period of five years from the
63 date of fingerprinting. The residential care facility may conduct criminal background
64 checks, or components thereof, at more frequent intervals, at the discretion of the
65 residential care facility.

66 5. The costs of the criminal background check shall be the responsibility of the
67 residential care facility or the individual.

68 6. After the criminal background check is completed, if any employee or volunteer
69 of the residential care facility, a person eighteen years of age or older who resides at or on
70 the property of the residential care facility, or a person who has unsupervised contact with
71 a resident of the residential care facility performs an act listed under this section that
72 would make him or her ineligible for employment or presence at the residential care
73 facility, such employee, volunteer, or person shall be terminated or removed from the
74 premises immediately by the director of the residential care facility.

210.1264. Upon request by the department or a law enforcement officer acting
2 within the scope of his or her employment, any license-exempt residential care facility shall
3 provide a full census and demographic information of children at the residential care
4 facility, including parental or other guardian contact information.

210.1265. The residential care facility shall comply with all fire, safety, health, and
2 sanitation inspections as may be required by state law or local ordinance.

210.1268. When the department is advised or has reason to believe that any
2 residential care facility is operating without proper notification in accordance with sections
3 210.1250 to 210.1286, it shall give the director of the residential care facility written notice
4 by certified mail that such person shall file notification in accordance with sections
5 210.1250 to 210.1286 within thirty days after receipt of such notice, or the department may
6 request a court injunction as provided under section 210.1271.

210.1271. 1. Notwithstanding any other remedy, the department, the prosecuting attorney of the county where the facility is located, or the attorney general may seek injunctive relief to cease the operation of the residential care facility and provide for the appropriate removal of the children from the residential care facility and placement in the custody of the parent or legal guardian, the department, or any other appropriate entity in the discretion of the court. Such action shall be brought in the circuit court of the county in which such residential care facility is located and shall be initiated only for the following violations:

(1) Providing supervision, care, lodging, or maintenance for any children in such facility without filing notification in accordance with sections 210.1250 to 210.1286;

(2) Failing to satisfactorily comply with all fire, safety, health, and sanitation inspections as may be required by state law or local ordinance and required under section 210.252; or

(3) An immediate health, safety, or welfare concern for the children at the residential care facility.

2. The department may notify the attorney general of any case in which the department makes a referral to a juvenile officer for removal of a child from a residential care facility. The notification shall include any violations under subsection 1 of this section.

210.1274. Nothing in the statutes of Missouri shall give any governmental agency jurisdiction or authority to regulate or attempt to regulate, control, or influence the form, manner, or content of the religious curriculum, program, or ministry of a school or of a facility sponsored by a church or religious organization.

210.1280. The department shall maintain a list of all residential care facilities in compliance with sections 210.1250 to 210.1286, and the list shall be provided upon request. The list shall also include information regarding how a person may obtain information about the nature and disposition of any substantiated child abuse or neglect reports at or related to the residential care facility.

210.1283. A person is guilty of a class B misdemeanor if such person knowingly fails to complete a criminal background check, as described under subsection 1 of section 210.1263, on any individual described under subdivision (1) of subsection 2 of section 210.1263 and such individual is employed or volunteers at the residential care facility, resides at or on the property of the residential care facility, or has unsupervised contact with a resident at the residential care facility.

210.1286. The department shall promulgate rules and regulations necessary for the implementation of sections 210.1250 to 210.1286. Any rule or portion of a rule, as that

3 term is defined in section 536.010, that is created under the authority delegated in this
4 section shall become effective only if it complies with and is subject to all of the provisions
5 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
6 nonseverable, and if any of the powers vested with the general assembly pursuant to
7 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
9 proposed or adopted after the effective date of sections 210.1250 to 210.1286 shall be
10 invalid and void.

Section B. Because immediate action is necessary to protect children, section A of this
2 act is deemed necessary for the immediate preservation of the public health, welfare, peace, and
3 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
4 section A of this act shall be in full force and effect upon its passage and approval.

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