

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 826
100TH GENERAL ASSEMBLY

1808H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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

Section A. Sections 210.221 and 566.147, RSMo, are repealed and two new sections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

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

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

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

15 (3) To promulgate and issue rules and regulations the department deems necessary or
16 proper in order to establish standards of service and care to be rendered by such licensees to
17 children. No rule or regulation promulgated by the division shall in any manner restrict or
18 interfere with any religious instruction, philosophies or ministries provided by the facility and

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.

19 shall not apply to facilities operated by religious organizations which are not required to be
20 licensed;

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

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

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

33 3. The department shall deny, suspend, place on probation or revoke a license if it
34 receives official written notice that the local governing body has found that license is prohibited
35 by any local law related to the health and safety of children. **The department may deny an**
36 **application for a license if the department determines that a home or other place in which**
37 **an applicant would operate a child-care facility is located within one thousand feet of any**
38 **location where a person required to register under sections 589.400 to 589.425 either**
39 **resides as that term is defined in subsection 3 of section 566.147 or regularly receives**
40 **treatment or services. This provision shall not apply to treatment or services delivered in**
41 **a hospital, as hospital is defined in chapter 197, or in facilities owned or operated by a**
42 **hospital system.** The department may, after inspection, find the licensure, denial of licensure,
43 suspension or revocation to be in the best interest of the state.

44 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
45 under the authority delegated in sections 210.201 to 210.245 shall become effective only if it
46 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
47 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect
48 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
49 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
50 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
51 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
52 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
53 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

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

11 (2) Any offense in any other jurisdiction which, if committed in this state, would be a
12 violation listed in this section;

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

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

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

36 4. For the purposes of the section, one thousand feet shall be measured from the edge of
37 the offender's property nearest the public school, private school, child care facility, or former
38 victim to the nearest edge of the public school, private school, child care facility, or former
39 victim's property.

40 5. Violation of the provisions of subsection 1 of this section is a class E felony except
41 that the second or any subsequent violation is a class B felony. Violation of the provisions of
42 subsection 2 of this section is a class A misdemeanor except that the second or subsequent
43 violation is a class E felony.

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