

SENATE BILL NO. 1092

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

4095S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 537.046, RSMo, and to enact in lieu thereof two new sections relating to liability of childhood sexual abuse.

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

Section A. Section 537.046, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 210.233 and 537.046, to read as follows:

210.233. A child care provider applying for licensure pursuant to sections 210.201 to 210.245 which provides care for children between the overnight hours between six o'clock p.m. and six o'clock a.m., shall do the following in the licensure application:

(1) Demonstrate liability insurance with the limits of at least one million dollars per occurrence and which shall:

(a) Provide a defense and indemnity of the child care provider and employees and contractors of the child care provider for claims for physical injury, mental suffering, or death of a child in the provider's care and control;

(b) Include claims arising from assault and battery of a child in the provider's care and custody and lack of supervision of employees and contractors of the child care provider; and

(c) Not provide for the reduction of liability limits by the expense of defense of any such claims; and

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

18 (2) Provide a copy of the child care provider's policy
19 related to the prevention of sexual abuse of children in the
20 provider's care and control and which shall, at a minimum,
21 include:

22 (a) Annual mandatory reporter training for all
23 regular, temporary, and volunteer staff;

24 (b) Procedures for investigating the conduct of an
25 individual who has been alleged or suspected of having
26 sexually abused or attempting to sexually abuse a child
27 under the provider's care and control; and

28 (c) Procedures for providing for the immediate
29 separation of all children under the provider's care and
30 control and the individual alleged or suspected of having
31 sexually abused or attempting to sexually abuse a child
32 under the provider's care and control.

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

3 (1) "Actions against nonperpetrator defendants", any
4 action or claim to recover damages brought against a
5 nonperpetrator defendant by any person alleging negligent or
6 intentional failure to supervise a person that commits
7 childhood sexual abuse, or that the nonperpetrator
8 defendant's conduct caused or contributed to the childhood
9 sexual abuse by another person including, but not be limited
10 to, wrongful conduct, neglect or default in supervision,
11 hiring, employment, training, monitoring, or failure to
12 report, or the concealment of childhood sexual abuse;

13 (2) "Childhood sexual abuse", any act committed by the
14 defendant against the plaintiff which act occurred when the
15 plaintiff was under the age of eighteen years and which act
16 would have been a violation of section 566.030, [566.040,
17 566.050] 566.031, 566.032, 566.034, 566.060, [566.070,

18 566.080, 566.090] 566.061, 566.062, 566.064, 566.067,
19 566.068, 566.069, 566.071, 566.083, 566.086, 566.093,
20 566.095, 566.100, [566.110, or 566.120] 566.101, 566.209,
21 566.210, 566.211, or [section] 568.020;

22 [(2)] (3) "Injury" or "illness", either a physical
23 injury or illness or a psychological injury or illness. A
24 psychological injury or illness need not be accompanied by
25 physical injury or illness;

26 (4) "Nondisclosure clause", a provision in a contract
27 or agreement that requires the parties to the contract or
28 agreement not to disclose or discuss conduct, the existence
29 of a settlement involving conduct, or information covered by
30 the terms and conditions of the contract or agreement. The
31 term "nondisclosure clause" shall not include agreements to
32 not disclose the dollar amount included in the contract or
33 agreement;

34 (5) "Nondisparagement clause", a provision in a
35 contract or agreement that requires one or more parties to
36 the contract or agreement not to make a negative statement
37 about another party that relates to the contract, agreement,
38 claim, or action.

39 2. Any action to recover damages from injury or
40 illness caused by childhood sexual abuse **or actions against**
41 **nonperpetrator defendants** in an action brought pursuant to
42 this section shall be commenced [within ten years of the
43 plaintiff attaining the age of twenty-one or within three
44 years of the date the plaintiff discovers, or reasonably
45 should have discovered, that the injury or illness was
46 caused by childhood sexual abuse, whichever later occurs] **at**
47 **any time.**

48 3. **The provisions of subsection 2 of this section**
49 **shall apply to any action commenced on or after August 28,**

50 [2004] 2024, including any action which would have been
51 barred by the application of the statute of limitation
52 applicable prior to that date.

53 4. In any action involving childhood sexual abuse or
54 actions against nonperpetrator defendants, any nondisclosure
55 clause or nondisparagement clause shall be judicially
56 unenforceable. This subsection shall not apply to trade
57 secrets or proprietary information.

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