

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR  
**HOUSE BILL NO. 1323**  
**96TH GENERAL ASSEMBLY**

5196S.09T

2012

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**AN ACT**

To repeal sections 208.044, 210.135, 210.145, 210.211, and 210.245, RSMo, and to enact in lieu thereof seven new sections relating to the provision of child care services, with a penalty provision.

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

Section A. Sections 208.044, 210.135, 210.145, 210.211, and 210.245, RSMo, are  
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 208.044,  
3 208.053, 210.135, 210.145, 210.211, 210.245, and 544.456, to read as follows:

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

4 2. The division [of family services] shall purchase the child day care services required  
5 by this section by making payments directly to any providers of day care services licensed  
6 pursuant to chapter 210 or to providers of day care services who are not required by chapter 210  
7 to be licensed because they are providing care to relative children or no more than four children.

8 3. When a person who has been eligible and receiving day care services under this  
9 section becomes ineligible due to the end of the twelve-month period of transitional day care,  
10 as defined in section 208.400, such person may receive day care services from the division [of  
11 family services] if otherwise eligible for such services. [Until October 1, 1992, participants  
12 eligible for income eligible day care services, as defined by the division of family services, will

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.

13 continue to receive such services in the same proportion as that provided in fiscal year 1989,  
14 subject to appropriation.]

**208.053. 1. The provisions of this section shall be known as the "Low-Wage Trap Elimination Act". In order to more effectively transition persons receiving state-funded child care subsidy benefits under this chapter, the children's division, in conjunction with the department of revenue, shall, subject to appropriations, by January 1, 2013, implement a pilot program in at least one rural county and in at least one urban child care center that serves at least three hundred families, to be called the "Hand-up Program", to allow willing recipients who wish to participate in the program to continue to receive such child care subsidy benefits while sharing in the cost of such benefits through the payment of a premium, as follows:**

10 **(1) For purposes of this section, "full child care benefits" shall be the full benefits**  
11 **awarded to a recipient based on the income eligibility amount established by the division**  
12 **through the annual appropriations process as of August 28, 2012, to qualify for the benefits**  
13 **and shall not include the transitional child care benefits that are awarded to recipients**  
14 **whose income surpasses the eligibility level for full benefits to continue. The hand-up**  
15 **program shall be voluntary and shall be designed such that a participating recipient will**  
16 **not be faced with a sudden loss of child care benefits should the recipient's income rise**  
17 **above the maximum allowable monthly income for persons to receive full child care**  
18 **benefits as of August 28, 2012. In such instance, the recipient shall be permitted to**  
19 **continue to receive such benefits if the recipient pays a premium, to be paid via a payroll**  
20 **deduction if possible, to be applied only to that portion of the recipient's income above such**  
21 **maximum allowable monthly income for the receipt of full child care benefits as follows:**

22 **(a) The premium shall be forty-four percent of the recipient's excess adjusted gross**  
23 **income over the maximum allowable monthly income for the applicable family size for the**  
24 **receipt of child care benefits;**

25 **(b) The premium shall be paid on a monthly basis by the participating recipient,**  
26 **or may be paid on a different periodic basis if through a payroll deduction consistent with**  
27 **the payroll period of the person's employer;**

28 **(c) The division shall develop a payroll deduction program in conjunction with the**  
29 **department of revenue, and shall promulgate rules for the payment of premiums, through**  
30 **such payroll deduction program or through an alternate method to be determined by the**  
31 **division, owed under the hand-up program; and**

32 **(d) Participating recipients who fail to pay the premium owed shall be removed**  
33 **permanently from the program after sixty days of non-payment;**

34           **(2) Subject to the receipt of federal waivers if necessary, participating recipients**  
35 **shall be eligible to receive child care service benefits at income levels all the way up to the**  
36 **level at which a person's premium equals the value of the child care service benefits**  
37 **received by the recipient;**

38           **(3) Only those recipients who currently receive full child care benefits as of joining**  
39 **the program and who had been receiving full child care service benefits continuously since**  
40 **on or before August 28, 2012, shall be eligible to participate in the program. Only those**  
41 **recipients who agree to the terms of the hand-up program during a ninety-day sign-up**  
42 **period shall be allowed to participate in the program, pursuant to rules to be promulgated**  
43 **by the division; and**

44           **(4) A participating recipient shall be allowed to opt out of the program at any time,**  
45 **but such person shall not be allowed to participate in the program a second time.**

46           **2. The division shall track the number of participants in the hand-up program,**  
47 **premiums and taxes paid by each participant in the program and the aggregate of such**  
48 **premiums and taxes, as well as the aggregate of those taxes paid on income exceeding the**  
49 **maximum allowable income for receiving full child care benefits outside the hand-up**  
50 **program, and shall issue an annual report to the general assembly by January 1, 2014, and**  
51 **annually on January first thereafter, detailing the effectiveness of the pilot program in**  
52 **encouraging recipients to increase their income levels above the income maximum**  
53 **applicable to each recipient. The report shall also detail the costs of administration and**  
54 **the increased amount of state income tax paid and premiums paid as a result of the**  
55 **program, as well as an analysis of whether the pilot program could be expanded to include**  
56 **other types of benefits including but not limited to food stamps, temporary assistance for**  
57 **needy families, low income heating assistance, women, infants and children supplemental**  
58 **nutrition program, the state children's health insurance program, and MO HealthNet**  
59 **benefits.**

60           **3. The division shall pursue all necessary waivers from the federal government to**  
61 **implement the hand-up program with the goal of allowing participating recipients to**  
62 **receive child care service benefits at income levels all the way up to the level at which a**  
63 **person's premium equals the value of the child care service benefits received by the**  
64 **recipient. If the division is unable to obtain such waivers, the division shall implement the**  
65 **program to the degree possible without such waivers.**

66           **4. (1) There is hereby created in the state treasury the "Hand-Up Program**  
67 **Premium Fund", which shall consist of premiums collected under this section. The state**  
68 **treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the**  
69 **state treasurer may approve disbursements. The state treasurer shall invest moneys in the**

70 **fund in the same manner as other funds are invested. Any interest and moneys earned on**  
71 **such investments shall be credited to the fund. Notwithstanding the provisions of section**  
72 **33.080, to the contrary, any moneys remaining in the fund at the end of the biennium shall**  
73 **not revert to the credit of the general revenue fund.**

74 **(2) All premiums received under the program shall be deposited in the fund, out**  
75 **of which the cost of administering the hand-up program shall be paid, as well as the**  
76 **necessary payments to the federal government and to the state general revenue fund. Child**  
77 **care benefits provided under the hand-up program shall continue to be paid for as under**  
78 **the existing state child care assistance program.**

79 **5. After the first year of the program, or sooner if feasible, the cost of administering**  
80 **the program shall be paid out of the premiums received. Any premiums collected**  
81 **exceeding the cost of administering the program shall, if required by federal law, be shared**  
82 **with the federal government and the state general revenue fund in the same proportion**  
83 **that the federal government shares in the cost of funding the child care assistance program**  
84 **with the state.**

85 **6. Any rule or portion of a rule, as that term is defined in section 536.010 that is**  
86 **created under the authority delegated under this section shall become effective only if it**  
87 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**  
88 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
89 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**  
90 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
91 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**  
92 **shall be invalid and void.**

93 **7. Pursuant to section 23.253 of the Missouri sunset act:**

94 **(1) The provisions of the new program authorized under this section shall sunset**  
95 **automatically three years after the effective date of this section unless reauthorized by an**  
96 **act of the general assembly; and**

97 **(2) If such program is reauthorized, the program authorized under this section**  
98 **shall sunset automatically six years after the effective date of the reauthorization of this**  
99 **section; and**

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

210.135. 1. Any person, official, or institution complying with the provisions of sections  
2 210.110 to 210.165 in the making of a report, the taking of color photographs, or the making of  
3 radiologic examinations pursuant to sections 210.110 to 210.165, or both such taking of color  
4 photographs and making of radiologic examinations, or the removal or retaining a child pursuant

5 to sections 210.110 to 210.165, or in cooperating with the division, or any other law enforcement  
6 agency, juvenile office, court, or child-protective service agency of this or any other state, in any  
7 of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse,  
8 neglect or assault, pursuant to sections 568.045 to 568.060, shall have immunity from any  
9 liability, civil or criminal, that otherwise might result by reason of such actions. Provided,  
10 however, any person, official or institution intentionally filing a false report, acting in bad faith,  
11 or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person,  
12 official, or institution shall have the same immunity with respect to participation in any judicial  
13 proceeding resulting from the report.

14 2. Any person, who is not a school district employee, who makes a report to any  
15 employee of the school district of child abuse by a school employee shall have immunity from  
16 any liability, civil or criminal, that otherwise might result because of such report. Provided,  
17 however, that any such person who makes a false report, knowing that the report is false, or who  
18 acts in bad faith or with ill intent in making such report shall not have immunity from any  
19 liability, civil or criminal. Any such person shall have the same immunity with respect to  
20 participation in any judicial proceeding resulting from the report.

21 **3. In a case involving the death or serious injury of a child after a report has been**  
22 **made under sections 210.109 to 210.165, the division shall conduct a preliminary evaluation**  
23 **in order to determine whether a review of the ability of the circuit manager or case worker**  
24 **or workers to perform their duties competently is necessary. The preliminary evaluation**  
25 **shall examine:**

- 26 (1) **The hotline worker or workers who took any reports related to such case;**  
27 (2) **The division case worker or workers assigned to the investigation of such**  
28 **report; and**  
29 (3) **The circuit manager assigned to the county where the report was investigated.**  
30

31 **Any preliminary evaluation shall be completed no later than three days after the child's**  
32 **death. If the division determines a review and assessment is necessary, it shall be**  
33 **completed no later than three days after the child's death.**

210.145. 1. The division shall develop protocols which give priority to:

- 2 (1) Ensuring the well-being and safety of the child in instances where child abuse or  
3 neglect has been alleged;  
4 (2) Promoting the preservation and reunification of children and families consistent with  
5 state and federal law;  
6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of receiving and  
8 maintaining reports. This information system shall have the ability to receive reports over a  
9 single, statewide toll-free number. Such information system shall maintain the results of all  
10 investigations, family assessments and services, and other relevant information.

11 2. The division shall utilize structured decision-making protocols for classification  
12 purposes of all child abuse and neglect reports. The protocols developed by the division shall  
13 give priority to ensuring the well-being and safety of the child. All child abuse and neglect  
14 reports shall be initiated within twenty-four hours and shall be classified based upon the reported  
15 risk and injury to the child. The division shall promulgate rules regarding the structured  
16 decision-making protocols to be utilized for all child abuse and neglect reports.

17 3. Upon receipt of a report, the division shall determine if the report merits investigation,  
18 including reports which if true would constitute a suspected violation of any of the following:  
19 section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen  
20 years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age,  
21 or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the  
22 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than  
23 eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or  
24 568.090, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such  
25 crimes. The division shall immediately communicate all reports that merit investigation to its  
26 appropriate local office and any relevant information as may be contained in the information  
27 system. The local division staff shall determine, through the use of protocols developed by the  
28 division, whether an investigation or the family assessment and services approach should be used  
29 to respond to the allegation. The protocols developed by the division shall give priority to  
30 ensuring the well-being and safety of the child.

31 4. **When the child abuse and neglect hotline receives three or more calls, within a**  
32 **seventy-two hour period, from one or more individuals concerning the same child, the**  
33 **division shall conduct a review to determine whether the calls meet the criteria and**  
34 **statutory definition for a child abuse and neglect report to be accepted. In conducting the**  
35 **review, the division shall contact the hotline caller or callers in order to collect information**  
36 **to determine whether the calls meet the criteria for harassment.**

37 5. The local office shall contact the appropriate law enforcement agency immediately  
38 upon receipt of a report which division personnel determine merits an investigation and provide  
39 such agency with a detailed description of the report received. In such cases the local division  
40 office shall request the assistance of the local law enforcement agency in all aspects of the  
41 investigation of the complaint. The appropriate law enforcement agency shall either assist the

42 division in the investigation or provide the division, within twenty-four hours, an explanation  
43 in writing detailing the reasons why it is unable to assist.

44 [5.] 6. The local office of the division shall cause an investigation or family assessment  
45 and services approach to be initiated in accordance with the protocols established in subsection  
46 2 of this section, except in cases where the sole basis for the report is educational neglect. If the  
47 report indicates that educational neglect is the only complaint and there is no suspicion of other  
48 neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the  
49 report. If the report indicates the child is in danger of serious physical harm or threat to life, an  
50 investigation shall include direct observation of the subject child within twenty-four hours of the  
51 receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct  
52 observation. **Callers to the child abuse and neglect hotline shall be instructed by the**  
53 **division's hotline to call 911 in instances where the child may be in immediate danger.** If  
54 the parents of the child are not the alleged abusers, a parent of the child must be notified prior  
55 to the child being interviewed by the division. **No person responding to or investigating a**  
56 **child abuse and neglect report shall call prior to a home visit or leave any documentation**  
57 **of any attempted visit, such as business cards, pamphlets, or other similar identifying**  
58 **information if he or she has a reasonable basis to believe the following factors are present:**

- 59 (1) (a) **No person is present in the home at the time of the home visit; and**  
60 (b) **The alleged perpetrator resides in the home or the physical safety of the child**  
61 **may be compromised if the alleged perpetrator becomes aware of the attempted visit;**  
62 (2) **The alleged perpetrator will be alerted regarding the attempted visit; or**  
63 (3) **The family has a history of domestic violence or fleeing the community.**  
64

65 **If the alleged perpetrator is present during a visit by the person responding to or**  
66 **investigating the report, such person shall provide written material to the alleged**  
67 **perpetrator informing him or her of his or her rights regarding such visit, including but**  
68 **not limited to the right to contact an attorney. The alleged perpetrator shall be given a**  
69 **reasonable amount of time to read such written material or have such material read to him**  
70 **or her by the case worker before the visit commences, but in no event shall such time**  
71 **exceed five minutes; except that, such requirement to provide written material and**  
72 **reasonable time to reach such material shall not apply in cases where the child faces an**  
73 **immediate threat or danger, or the person responding to investigating the report is or feels**  
74 **threatened or in danger of physical harm.** If the abuse is alleged to have occurred in a school  
75 or child-care facility the division shall not meet with the child in any school building or  
76 child-care facility building where abuse of such child is alleged to have occurred. When the  
77 child is reported absent from the residence, the location and the well-being of the child shall be

78 verified. For purposes of this subsection, child-care facility shall have the same meaning as such  
79 term is defined in section 210.201.

80 [6.] 7. The director of the division shall name at least one chief investigator for each  
81 local division office, who shall direct the division response on any case involving a second or  
82 subsequent incident regarding the same subject child or perpetrator. The duties of a chief  
83 investigator shall include verification of direct observation of the subject child by the division  
84 and shall ensure information regarding the status of an investigation is provided to the public  
85 school district liaison. The public school district liaison shall develop protocol in conjunction  
86 with the chief investigator to ensure information regarding an investigation is shared with  
87 appropriate school personnel. The superintendent of each school district shall designate a  
88 specific person or persons to act as the public school district liaison. Should the subject child  
89 attend a nonpublic school the chief investigator shall notify the school principal of the  
90 investigation. Upon notification of an investigation, all information received by the public  
91 school district liaison or the school shall be subject to the provisions of the federal Family  
92 Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34  
93 C.F.R., Part 99.

94 [7.] 8. The investigation shall include but not be limited to the nature, extent, and cause  
95 of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect;  
96 the names and conditions of other children in the home, if any; the home environment and the  
97 relationship of the subject child to the parents or other persons responsible for the child's care;  
98 any indication of incidents of physical violence against any other household or family member;  
99 and other pertinent data.

100 [8.] 9. When a report has been made by a person required to report under section  
101 210.115, the division shall contact the person who made such report within forty-eight hours of  
102 the receipt of the report in order to ensure that full information has been received and to obtain  
103 any additional information or medical records, or both, that may be pertinent.

104 [9.] 10. Upon completion of the investigation, if the division suspects that the report was  
105 made maliciously or for the purpose of harassment, the division shall refer the report and any  
106 evidence of malice or harassment to the local prosecuting or circuit attorney.

107 [10.] 11. Multidisciplinary teams shall be used whenever conducting the investigation  
108 as determined by the division in conjunction with local law enforcement. Multidisciplinary  
109 teams shall be used in providing protective or preventive social services, including the services  
110 of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court,  
111 and other agencies, both public and private.

112 [11.] 12. For all family support team meetings involving an alleged victim of child abuse  
113 or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or

114 custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the  
115 child shall be provided notice and be permitted to attend all such meetings. Family members,  
116 other than alleged perpetrators, or other community informal or formal service providers that  
117 provide significant support to the child and other individuals may also be invited at the discretion  
118 of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal  
119 guardian or custodian and the foster parents may request that other individuals, other than alleged  
120 perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or  
121 attends such team meetings, the division or the convenor of the meeting shall provide such  
122 persons with notice of all such subsequent meetings involving the child. Families may determine  
123 whether individuals invited at their discretion shall continue to be invited.

124 [12.] **13.** If the appropriate local division personnel determine after an investigation has  
125 begun that completing an investigation is not appropriate, the division shall conduct a family  
126 assessment and services approach. The division shall provide written notification to local law  
127 enforcement prior to terminating any investigative process. The reason for the termination of  
128 the investigative process shall be documented in the record of the division and the written  
129 notification submitted to local law enforcement. Such notification shall not preclude nor prevent  
130 any investigation by law enforcement.

131 [13.] **14.** If the appropriate local division personnel determines to use a family  
132 assessment and services approach, the division shall:

133 (1) Assess any service needs of the family. The assessment of risk and service needs  
134 shall be based on information gathered from the family and other sources;

135 (2) Provide services which are voluntary and time-limited unless it is determined by the  
136 division based on the assessment of risk that there will be a high risk of abuse or neglect if the  
137 family refuses to accept the services. The division shall identify services for families where it  
138 is determined that the child is at high risk of future abuse or neglect. The division shall  
139 thoroughly document in the record its attempt to provide voluntary services and the reasons these  
140 services are important to reduce the risk of future abuse or neglect to the child. If the family  
141 continues to refuse voluntary services or the child needs to be protected, the division may  
142 commence an investigation;

143 (3) Commence an immediate investigation if at any time during the family assessment  
144 and services approach the division determines that an investigation, as delineated in sections  
145 210.109 to 210.183, is required. The division staff who have conducted the assessment may  
146 remain involved in the provision of services to the child and family;

147 (4) Document at the time the case is closed, the outcome of the family assessment and  
148 services approach, any service provided and the removal of risk to the child, if it existed.

149 [14.] **15.** Within thirty days of an oral report of abuse or neglect, the local office shall  
150 update the information in the information system. The information system shall contain, at a  
151 minimum, the determination made by the division as a result of the investigation, identifying  
152 information on the subjects of the report, those responsible for the care of the subject child and  
153 other relevant dispositional information. The division shall complete all investigations within  
154 thirty days, unless good cause for the failure to complete the investigation is documented in the  
155 information system. If a child involved in a pending investigation dies, the investigation shall  
156 remain open until the division's investigation surrounding the death is completed. If the  
157 investigation is not completed within thirty days, the information system shall be updated at  
158 regular intervals and upon the completion of the investigation. The information in the  
159 information system shall be updated to reflect any subsequent findings, including any changes  
160 to the findings based on an administrative or judicial hearing on the matter.

161 [15.] **16.** A person required to report under section 210.115 to the division and any  
162 person making a report of child abuse or neglect made to the division which is not made  
163 anonymously shall be informed by the division of his or her right to obtain information  
164 concerning the disposition of his or her report. Such person shall receive, from the local office,  
165 if requested, information on the general disposition of his or her report. Such person may  
166 receive, if requested, findings and information concerning the case. Such release of information  
167 shall be at the discretion of the director based upon a review of the reporter's ability to assist in  
168 protecting the child or the potential harm to the child or other children within the family. The  
169 local office shall respond to the request within forty-five days. The findings shall be made  
170 available to the reporter within five days of the outcome of the investigation. If the report is  
171 determined to be unsubstantiated, the reporter may request that the report be referred by the  
172 division to the office of child advocate for children's protection and services established in  
173 sections 37.700 to 37.730. Upon request by a reporter under this subsection, the division shall  
174 refer an unsubstantiated report of child abuse or neglect to the office of child advocate for  
175 children's protection and services.

176 [16.] **17.** The division shall provide to any individual who is not satisfied with the  
177 results of an investigation information about the office of child advocate and the services it may  
178 provide under sections 37.700 to 37.730.

179 [17.] **18.** In any judicial proceeding involving the custody of a child the fact that a report  
180 may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

181 (1) Nothing in this subsection shall prohibit the introduction of evidence from  
182 independent sources to support the allegations that may have caused a report to have been made;  
183 and

184 (2) The court may on its own motion, or shall if requested by a party to the proceeding,  
185 make an inquiry not on the record with the children's division to determine if such a report has  
186 been made. If a report has been made, the court may stay the custody proceeding until the  
187 children's division completes its investigation.

188 [18.] **19.** In any judicial proceeding involving the custody of a child where the court  
189 determines that the child is in need of services [pursuant to subdivision (d)] **under paragraph**  
190 **(d) of subdivision (1)** of subsection 1 of section 211.031 and has taken jurisdiction, the child's  
191 parent, guardian or custodian shall not be entered into the registry.

192 [19.] **20.** The children's division is hereby granted the authority to promulgate rules and  
193 regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the  
194 provisions of sections 210.109 to 210.183.

195 [20.] **21.** Any rule or portion of a rule, as that term is defined in section 536.010, that  
196 is created under the authority delegated in this section shall become effective only if it complies  
197 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
198 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
199 assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and  
200 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
201 any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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

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

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

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

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

19 (5) Any child-care facility maintained or operated under the exclusive control of a  
20 religious organization. When a nonreligious organization, having as its principal purpose the  
21 provision of child-care services, enters into an arrangement with a religious organization for the  
22 maintenance or operation of a child-care facility, the facility is not under the exclusive control  
23 of the religious organization;

24 (6) Any residential facility or day program licensed by the department of mental health  
25 pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation  
26 exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental  
27 retardation or developmental disability, as defined in section 630.005; and

28 (7) Any nursery school.

29 2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility  
30 shall be exempt from licensure if such facility receives any state or federal funds for providing  
31 care for children, except for federal funds for those programs which meet the requirements for  
32 participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to  
33 parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds  
34 received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

35 **3. Any child care facility not exempt from licensure shall disclose the licensure**  
36 **status of the facility to the parents or guardians of children for which the facility provides**  
37 **care. No child care facility exempt from licensure shall represent to any parent or**  
38 **guardian of children for which the facility provides care that the facility is licensed when**  
39 **such facility is in fact not licensed.**

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

9 2. If the department of health and senior services proposes to deny, suspend, place on  
10 probation or revoke a license, the department of health and senior services shall serve upon the  
11 applicant or licensee written notice of the proposed action to be taken. The notice shall contain  
12 a statement of the type of action proposed, the basis for it, the date the action will become  
13 effective, and a statement that the applicant or licensee shall have thirty days to request in writing  
14 a hearing before the administrative hearing commission and that such request shall be made to  
15 the department of health and senior services. If no written request for a hearing is received by

16 the department of health and senior services within thirty days of the delivery or mailing by  
17 certified mail of the notice to the applicant or licensee, the proposed discipline shall take effect  
18 on the thirty-first day after such delivery or mailing of the notice to the applicant or licensee. If  
19 the applicant or licensee makes a written request for a hearing, the department of health and  
20 senior services shall file a complaint with the administrative hearing commission within ninety  
21 days of receipt of the request for a hearing.

22         3. The department of health and senior services may issue letters of censure or warning  
23 without formal notice or hearing. Additionally, the department of health and senior services may  
24 place a licensee on probation pursuant to chapter 621.

25         4. The department of health and senior services may suspend any license simultaneously  
26 with the notice of the proposed action to be taken in subsection 2 of this section, if the  
27 department of health and senior services finds that there is a threat of imminent bodily harm to  
28 the children in care. The notice of suspension shall include the basis of the suspension and the  
29 appeal rights of the licensee pursuant to this section. The licensee may appeal the decision to  
30 suspend the license to the department of health and senior services. The appeal shall be filed  
31 within ten days from the delivery or mailing by certified mail of the notice of appeal. A hearing  
32 shall be conducted by the department of health and senior services within ten days from the date  
33 the appeal is filed. The suspension shall continue in effect until the conclusion of the  
34 proceedings, including review thereof, unless sooner withdrawn by the department of health and  
35 senior services, dissolved by a court of competent jurisdiction or stayed by the administrative  
36 hearing commission. Any person aggrieved by a final decision of the department made pursuant  
37 to this section shall be entitled to judicial review in accordance with chapter 536.

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

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

**544.456. 1. This section shall be known and may be cited as "Sam Pratt's Law".**  
**2. In any case involving abuse, neglect, or death of a child, any court with**  
**competent jurisdiction may impose as a condition of release of a defendant under section**  
**544.455 that such defendant be prohibited from providing child care services for**  
**compensation pending final disposition of the case. The court shall notify the department**  
**of health and senior services and the department of social services when it makes such a**  
**determination, as well as the final disposition of the case.**

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