

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 976
98TH GENERAL ASSEMBLY

2088H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.003, 210.221, and 210.861, RSMo, and to enact in lieu thereof six new sections relating to the protection of children, with an emergency clause.

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

Section A. Sections 210.003, 210.221, and 210.861, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 210.003, 210.118, 210.148, 210.221, 210.223, and 210.861, to read as follows:

210.003. 1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Immunization Practices Advisory Committee (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

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.

18 (b) A parent or guardian exemption, by which a child shall be exempted from the
19 requirements of this section if one parent or guardian files a written objection to immunization
20 with the day care administrator. Exemptions shall be accepted by the day care administrator
21 when the necessary information as determined by the department of health and senior services
22 is filed with the day care administrator by the parent or guardian. Exemption forms shall be
23 provided by the department of health and senior services.

24 3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease
25 within a particular facility, the administrator of the facility shall follow the control measures
26 instituted by the local health authority or the department of health and senior services or both the
27 local health authority and the department of health and senior services, as established in Rule 19
28 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

29 4. The administrator of each public, private or parochial day care center, preschool or
30 nursery school shall cause to be prepared a record of immunization of every child enrolled in or
31 attending a facility under his jurisdiction. An annual summary report shall be made by January
32 fifteenth showing the immunization status of each child enrolled, using forms provided for this
33 purpose by the department of health and senior services. The immunization records shall be
34 available for review by department of health and senior services personnel upon request.

35 5. For purposes of this section, satisfactory evidence of immunization means a statement,
36 certificate or record from a physician or other recognized health facility or personnel, stating that
37 the required immunizations have been given to the child and verifying the type of vaccine and
38 the month, day and year of administration.

39 6. Nothing in this section shall preclude any political subdivision from adopting more
40 stringent rules regarding the immunization of preschool children.

41 **7. All public, private, and parochial day care centers, preschools, and nursery**
42 **schools shall notify the parent or guardian of each child at the time of initial enrollment**
43 **in or attendance at the facility that the parent or guardian may request notice of whether**
44 **there are children currently enrolled in or attending the facility for whom an immunization**
45 **exemption has been filed. Any public, private, or parochial day care center, preschool, or**
46 **nursery school shall notify the parent or guardian of a child enrolled in or attending the**
47 **facility, upon request, of whether there are children currently enrolled in or attending the**
48 **facility for whom an immunization exemption has been filed.**

2 **210.118. 1. In any action under chapter 210 or 211 in which the court finds by a**
3 **preponderance of the evidence that a party is responsible for child abuse or neglect as**
4 **those terms are defined in section 210.110, the clerk shall send a certified copy of the**
5 **judgment or order to the children's division. Upon receipt of the order, the children's**

5 **division shall list the individual as a perpetrator of child abuse or neglect in the central**
6 **registry.**

7 **2. In every case in which the person has pled guilty or has been found guilty of:**

8 **(1) A crime under section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030,**
9 **566.060, or 567.050 and the victim is a child less than eighteen years of age;**

10 **(2) Any other crime in chapter 566 if the victim is a child less than eighteen years**
11 **of age and the perpetrator is twenty-one years of age or older;**

12 **(3) A crime under section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080,**
13 **568.090, 573.025, or 573.035; or**

14 **(4) An attempt to commit any such crimes;**

15

16 **the court shall enter an order directing the children's division to list the individual as a**
17 **perpetrator of child abuse or neglect in the central registry. The clerk shall send a certified**
18 **copy of the order to the children's division. Upon receipt of the order, the children's**
19 **division shall list the individual as a perpetrator of child abuse or neglect in the central**
20 **registry.**

210.148. 1. Notwithstanding any provision of section 210.145 to the contrary, upon
2 **the receipt of a report under section 210.145 if the subject of the report is a juvenile with**
3 **problem sexual behavior, the division shall immediately communicate such report to the**
4 **appropriate local office along with any relevant information as may be contained in the**
5 **information system. Upon receipt of the report and relevant information, the local office**
6 **shall use a family assessment and services approach, as described in subsection 14 of**
7 **section 210.145 to respond to the allegation contained in the report.**

8 **2. Nothing in this section shall prohibit the local office from commencing an**
9 **investigation if the local office, at any point in using the family assessment and services**
10 **approach, determines that an investigation is required. Such investigation shall comply**
11 **with the provisions of section 210.145 and may include requesting assistance from the**
12 **appropriate law enforcement agency.**

13 **3. As used in this section, the term "juvenile with problem sexual behavior" means**
14 **any person, under fourteen years of age, who has allegedly committed sexual abuse against**
15 **another younger child.**

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

21 (4) **To approve training concerning the safe sleep recommendations of the**
22 **American 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, after
36 inspection, find the licensure, denial of licensure, suspension or revocation to be in the best
37 interest of the state.

38 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
39 under the authority delegated in sections 210.201 to 210.245 shall become effective only if it
40 complies with and is subject to all of the provisions of chapter 536, and, if applicable, section
41 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect

42 and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any
43 rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions
44 of law. This section and chapter 536 are nonseverable and if any of the powers vested with the
45 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
46 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
47 and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

**210.223. 1. All licensed child care facilities that provide care for children less than
2 one year of age shall implement and maintain a written safe sleep policy in accordance with
3 the most recent safe sleep recommendations of the American Academy of Pediatrics. The
4 purpose of the safe sleep policy is to maintain a safe sleep environment that reduces the
5 risk of sudden infant death syndrome and sudden unexpected infant deaths in children less
6 than one year of age.**

**7 2. If an infant requires alternative sleep positions or special sleeping arrangements,
8 the child care facility shall be provided with written instructions, signed by the infant's
9 licensed health care provider, detailing the alternative sleep positions or special sleeping
10 arrangements for such infant. The child care facility shall put the infant to sleep in
11 accordance with such written instructions.**

12 3. As used in this section, the following terms shall mean:

**13 (1) "Sudden infant death syndrome", the sudden death of an infant less than one
14 year of age that cannot be explained after a thorough investigation has been conducted,
15 including a complete autopsy, an examination of the death scene, and a review of the
16 clinical history;**

**17 (2) "Sudden unexpected infant death", the sudden and unexpected death of an
18 infant less than one year of age in which the manner and cause of death are not
19 immediately obvious prior to investigation. Causes of sudden unexpected infant death
20 include, but are not limited to, metabolic disorders, hypothermia or hyperthermia, neglect
21 or homicide, poisoning, and accidental suffocation.**

**22 4. All employees of licensed child care facilities who care for infants less than one
23 year of age shall successfully complete department-approved training on the most recent
24 safe sleep recommendations of the American Academy of Pediatrics every three years.**

**25 5. The department shall promulgate rules to implement the provisions of this
26 section. Such rules shall include, but not be limited to:**

**27 (1) Amending any current rules which are not in compliance with the most recent
28 safe sleep recommendations of the American Academy of Pediatrics;**

**29 (2) Keeping soft or loose bedding away from sleeping infants and out of safe sleep
30 environments including, but not limited to, bumper pads, pillows, quilts, comforters, sleep**

31 **positioning devices, sheepskins, blankets, flat sheets, cloth diapers, bibs, and other similar**
32 **items; and**

33 **(3) Prohibiting blankets or other soft or loose bedding from being hung on the sides**
34 **of cribs.**

35 **6. The department may adopt emergency rules to implement the requirements of**
36 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
37 **is created under the authority delegated in this section shall become effective only if it**
38 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
39 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
40 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
41 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
42 **grant of rulemaking authority and any rule proposed or adopted after the effective date**
43 **of this section shall be invalid and void.**

210.861. 1. When the tax prescribed by section 210.860 or section 67.1775 is
2 established, the governing body of the city or county or city not within a county shall appoint a
3 board of directors consisting of nine members, who shall be residents of the city or county or city
4 not within a county. All board members shall be appointed to serve for a term of three years,
5 except that of the first board appointed, three members shall be appointed for one-year terms,
6 three members for two-year terms and three members for three-year terms. Board members may
7 be reappointed. In a city not within a county, or any county of the first classification with a
8 charter form of government with a population not less than nine hundred thousand inhabitants,
9 or any county of the first classification with a charter form of government with a population not
10 less than two hundred thousand inhabitants and not more than six hundred thousand inhabitants,
11 or any noncharter county of the first classification with a population not less than one hundred
12 seventy thousand and not more than two hundred thousand inhabitants, or any noncharter county
13 of the first classification with a population not less than eighty thousand and not more than
14 eighty-three thousand inhabitants, or any third classification county with a population not less
15 than twenty-eight thousand and not more than thirty thousand inhabitants, or any county of the
16 third classification with a population not less than nineteen thousand five hundred and not more
17 than twenty thousand inhabitants the members of the community mental health board of trustees
18 appointed pursuant to the provisions of sections 205.975 to 205.990 shall be the board members
19 for the community children's services fund. The directors shall not receive compensation for
20 their services, but may be reimbursed for their actual and necessary expenses.

21 2. The board shall elect a chairman, vice chairman, treasurer, and such other officers as
22 it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety
23 **bond or comparable insurance coverage for theft, misappropriation, mismanagement, or**

24 **other acts**, in an amount to be determined and in a form to be approved by the board, for the
25 faithful performance of his or her duties and faithful accounting of all moneys that may come
26 into his or her hands. The treasurer shall enter into the surety bond **or comparable insurance**
27 **coverage** with a surety company **or insurer** authorized to do business in Missouri, and the cost
28 of such bond **or comparable insurance coverage** shall be paid by the board of directors. The
29 board shall administer and expend all funds generated pursuant to section 210.860 or section
30 67.1775 in a manner consistent with this section. **The board shall not be mandated to expend**
31 **funds by an act of state legislation without a majority vote of the county or city not within**
32 **a county.**

33 3. The board may contract with public or not-for-profit agencies licensed or certified
34 where appropriate to provide qualified services and may place conditions on the use of such
35 funds. The board shall reserve the right to audit the expenditure of any and all funds. The board
36 and any agency with which the board contracts may establish eligibility standards for the use of
37 such funds and the receipt of services. No member of the board shall serve on the governing
38 body, have any financial interest in, or be employed by any agency which is a recipient of funds
39 generated pursuant to section 210.860 or section 67.1775.

40 4. Revenues collected and deposited in the community children's services fund may be
41 expended for the purchase of the following services:

42 (1) Up to thirty days of temporary shelter for abused, neglected, runaway, homeless or
43 emotionally disturbed youth; respite care services; and services to unwed mothers;

44 (2) Outpatient chemical dependency and psychiatric treatment programs; counseling and
45 related services as a part of transitional living programs; home-based and community-based
46 family intervention programs; unmarried parent services; crisis intervention services, inclusive
47 of telephone hotlines; and prevention programs which promote healthy lifestyles among children
48 and youth and strengthen families;

49 (3) Individual, group, or family professional counseling and therapy services;
50 psychological evaluations; and mental health screenings.

51 5. **Any county or city not within a county in which voters have approved the levy**
52 **of a tax under section 67.1775 or section 210.860 shall not add services in addition to those**
53 **which are set forth in subsection 4 of this section at the time such levy is approved by the**
54 **voters, unless such services authorized by statute after the voters have approved the levy**
55 **are approved by the voters in the same manner as the original levy was approved. A**
56 **proposal to add services shall be approved as set forth in section 67.1775 or section 210.860.**

57 6. Revenues collected and deposited in the community children's services fund may not
58 be expended for inpatient medical, psychiatric, and chemical dependency services, or for
59 transportation services.

Section B. Because immediate action is necessary to ensure a safe sleep environment for
2 infants in child care facilities, this act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace, and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and this act shall be in full force and effect upon its passage and
5 approval.

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