

V.A.M.S. 210.199

210.199. Licensure through department of health and senior services required for receipt of certain education funds

Any applicant for a grant or contract who offers early childhood development, education or care programs and who receives funds derived from an appropriation to the department of elementary and secondary education pursuant to paragraph (d) of subdivision (3) of section 313.835 shall be licensed by the department of health and senior services pursuant to sections 210.201 to 210.259 prior to opening of the facility. The provisions of this section shall not apply to any grant or contract awarded to a request for proposal issued prior to August 28, 1999.

V.A.M.S. 210.200

210.200. Repealed by L.1955, H.B. No. 70, p. 685, § 1

V.A.M.S. 210.201

Yellow
& Red

210.201. Definitions

As used in sections 210.201 to 210.257, the following terms mean:

(1) **“Child”**, an individual who is under the age of seventeen;

Yellow
& Red

(2) **“Child-care facility”**, a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. If a facility or program is exempt from licensure based on the school exception established in this subdivision, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status; except that, under no circumstances shall any public or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization be required to submit documentation annually to the department to verify its licensure-exempt status;

(3) **“Person”**, any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

(4) **“Religious organization”**, a church, synagogue or mosque; an entity that has or would qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c) of the Internal Revenue Code;¹ or an entity whose real estate on which the child-care facility is located is exempt from taxation because it is used for religious purposes.

V.A.M.S. 210.203

210.203. Complaints against child care facilities, open records to be kept by department

The department of health and senior services shall maintain a record of substantiated, signed parental complaints against child care facilities licensed pursuant to this chapter, and shall make such complaints and findings available to the public upon request.

V.A.M.S. 210.210

210.210. Repealed by L.1955, H.B. No. 70, p. 685, § 1

V.A.M.S. 210.211

210.211. License required--exceptions

Effective: August 28, 2012

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

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

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

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

Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

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

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

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

(7) Any nursery school.

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

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

V.A.M.S. 210.215

210.215. Access to child and care providers during normal hours--exception, court orders restricting access

Any parent or guardian of a child shall have access to the child care facility in which his child is enrolled and which is licensed pursuant to the provisions of sections 210.201 to 210.245 and shall have access to the providers of care in such facilities during normal hours of operation or when a child of such parent or guardian is in the care of such facility or provider, unless such parent or guardian is subject to a court order restricting access to the child.

V.A.M.S. 210.220

210.220. Repealed by L.1955, H.B. No. 70, p. 685, § 1

V.A.M.S. 210.221

210.221. Licenses to be issued by department of health and senior services--duty to fix standards and make investigations--rule variance granted when, procedure

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

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

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

(3) To promulgate and issue rules and regulations the department deems necessary or proper in order to establish standards of service and care to be rendered by such licensees to children. No rule or regulation promulgated by the division shall in any manner restrict or interfere with any religious instruction, philosophies or ministries provided by the facility and shall not apply to facilities operated by religious organizations which are not required to be licensed; and

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

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

3. The department shall deny, suspend, place on probation or revoke a license if it receives official written notice that the local governing body has found that license is prohibited by any local law related to the health and safety of children. The department may, after inspection, find the licensure, denial of licensure, suspension or revocation to be in the best interest of the state.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

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

V.A.M.S. 210.230

210.230. Repealed by L.1955, H.B. No. 70, p. 685, § 1

V.A.M.S. 210.231

210.231. Department of health and senior services may delegate powers

The department of health and senior services may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the department of health and senior services to be competent, to investigate and inspect licensees and applicants for a license. Local inspection of child care facilities may be accomplished if the standards employed by local personnel are substantially equivalent to state standards and local personnel are available for enforcement of such standards.

V.A.M.S. 210.240

210.240. Repealed by L.1955, H.B. No. 70, p. 685, § 1

V.A.M.S. 210.241

210.241. Judicial review

Any person aggrieved by a final decision of the department of health and senior services made in the administration of sections 210.201 to 210.245 shall be entitled to judicial review thereof as provided in chapter 536.

V.A.M.S. 210.245

210.245. Violation, penalties--prosecutor may file suit to oversee or prevent operation of day care center--attorney general may seek injunction, when

Effective: August 28, 2012

1. Any person who violates any provision of sections 210.201 to 210.245, or who for such person or for any other person makes materially false statements in order to obtain a license or the renewal thereof pursuant to sections Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

210.201 to 210.245, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor and shall be assessed a fine of up to two hundred dollars per day, not to exceed a total of ten thousand dollars for subsequent offenses. In case such guilty person is a corporation, association, institution or society, the officers thereof who participate in such misdemeanor shall be subject to the penalties provided by law.

2. If the department of health and senior services proposes to deny, suspend, place on probation or revoke a license, the department of health and senior services shall serve upon the applicant or licensee written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or licensee shall have thirty days to request in writing a hearing before the administrative hearing commission and that such request shall be made to the department of health and senior services. If no written request for a hearing is received by the department of health and senior services within thirty days of the delivery or mailing by certified mail of the notice to the applicant or licensee, the proposed discipline shall take effect on the thirty-first day after such delivery or mailing of the notice to the applicant or licensee. If the applicant or licensee makes a written request for a hearing, the department of health and senior services shall file a complaint with the administrative hearing commission within ninety days of receipt of the request for a hearing.

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

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

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

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

V.A.M.S. 210.250

Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

210.250. Repealed by L.1982, H.B. Nos. 1171, 1173, 1306 & 1643, § 1

V.A.M.S. 210.251

210.251. State and federal funds to be made available to centers to upgrade standards

1. By January 1, 1994, financial incentives shall be provided by the department of health and senior services through the child development block grant and other public moneys for child-care facilities wishing to upgrade their standard of care and which meet quality standards.

2. The department of health and senior services shall make federal funds available to licensed or inspected child-care centers pursuant to federal law as set forth in the Child and Adult Food Program, 42 U.S.C. 1766.

V.A.M.S. 210.252

**210.252. Fire, safety, health and sanitation inspections, procedure--variances to rules granted when--
rules authorized**

1. All buildings and premises used by a child-care facility to care for more than four children except those exempted from the licensing provisions of the department of health and senior services pursuant to subdivisions (1), (2), (3), (4) and (6) of section 210.211, shall be inspected annually for fire and safety by the state fire marshal, the marshal's designee or officials of a local fire district and for health and sanitation by the department of health and senior services or officials of the local health department. Evidence of compliance with the inspections required by this section shall be kept on file and available to parents of children enrolling in the child-care facility.

2. Local inspection of child-care facilities may be accomplished if the standards employed by local personnel are substantially equivalent to state standards and local personnel are available for enforcement of such standards.

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

4. The department of health and senior services shall administer the provisions of sections 210.252 to 210.256, with the cooperation of the state fire marshal, local fire departments and local health agencies.

5. The department of health and senior services shall promulgate rules and regulations to implement and administer

Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

the provisions of sections 210.252 to 210.256. Such rules and regulations shall provide for the protection of children in all child-care facilities whether or not such facility is subject to the licensing provisions of sections 210.201 to 210.245.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 210.252 to 210.256 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

V.A.M.S. 210.254

210.254. Religious organizations operating facilities exempt under licensing laws required to file parental notice of responsibility and fire, safety inspections annually

1. Child-care facilities operated by religious organizations pursuant to the exempt status recognized in subdivision (5) of section 210.211 shall upon enrollment of any child provide the parent or guardian enrolling the child two copies of a notice of parental responsibility, one copy of which shall be retained in the files of the facility after the enrolling parent acknowledges, by signature, having read and accepted the information contained therein.

2. The notice of parental responsibility shall include the following:

(1) Notification that the child-care facility is exempt as a religious organization from state licensing and therefore not inspected or supervised by the department of health and senior services other than as provided herein and that the facility has been inspected by those designated in section 210.252 and is complying with the fire, health and sanitation requirements of sections 210.252 to 210.257;

(2) The names, addresses and telephone numbers of agencies and authorities which inspect the facility for fire, health and safety and the date of the most recent inspection by each;

(3) The staff/child ratios for enrolled children under two years of age, for children ages two to four and for those five years of age and older as required by the department of health and senior services regulations in licensed facilities, the standard ratio of staff to number of children for each age level maintained in the exempt facility, and the total number of children to be enrolled by the facility;

(4) Notification that background checks have been conducted on each individual caregiver and all other personnel at the facility. The background check shall be conducted upon employment and every two years thereafter on each

Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

individual caregiver and all other personnel at the facility. Such background check shall include a screening for child abuse or neglect through the division of family services, and a criminal record review through the Missouri highway patrol pursuant to section 43.540. The fee for the criminal record review shall be limited to the actual costs incurred by the Missouri highway patrol in conducting such review not to exceed ten dollars;

(5) The disciplinary philosophy and policies of the child-care facility; and

(6) The educational philosophy and policies of the child-care facility.

3. A copy of notice of parental responsibility, signed by the principal operating officer of the exempt child-care facility and the individual primarily responsible for the religious organization conducting the child-care facility and copies of the annual fire and safety inspections shall be filed annually during the month of August with the director of the department of health and senior services. Exempt child-care facilities which begin operation after August 28, 1993, shall file such notice at least five days prior to starting to operate.

V.A.M.S. 210.255

210.255. Religious organizations operating facility in violation, procedure--noncompliance after notice, prosecutor may act or attorney general

1. A parent or guardian of a child enrolled in a child care facility established, maintained or operated by a religious organization who has cause to believe that this section and section 210.254 are being violated may notify appropriate local law enforcement authorities.

2. If a child care facility maintained or operated under the exclusive control of a religious organization is suspected of violating any provision of sections 210.252 to 210.255, or if there is good cause to believe that the signatory made a materially false statement in the notice of parental responsibility required by sections 210.252 to 210.255, the department of health and senior services shall give twenty days' written notice to the facility concerning the nature of its suspected noncompliance. If compliance is not forthcoming within the twenty days, the department shall thereafter notify the prosecuting attorney of the county wherein the facility is located concerning the suspected noncompliance. If the prosecuting attorney refuses to act or fails to act within thirty days of receipt of notice from the department, the department of health and senior services may notify the attorney general concerning the suspected noncompliance and the attorney general may proceed under section 210.248.¹

V.A.M.S. 210.256

210.256. Violations, penalties--injunction, procedure

1. Any person who violates any provision of sections 210.252 to 210.255, or who for such person or for any other person makes a materially false statement in the notice of parental responsibility required by sections 210.254 and 210.255, shall be guilty of an infraction for the first offense and shall be assessed a fine not to exceed two hundred dollars and shall be guilty of a class A misdemeanor for subsequent offenses. In case such guilty person is a corporation, association, institution, or society, the officers thereof who participate in such violation shall be subject Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

to the same penalties.

2. In addition to initiating proceedings pursuant to subsection 1 of this section, or in lieu thereof, the prosecuting attorney of the county where the child-care facility is located may file suit for a preliminary and permanent order overseeing or preventing the operation of a child-care facility for violating any provision of section 210.252. The injunction shall remain in force until such time as the court determines that the child-care facility is in substantial compliance.

3. In cases of imminent bodily harm to children in the care of a child-care facility, the department of health and senior services may apply to the circuit court of the county in which the child-care facility is located for injunctive relief, which may include removing the children from the facility, overseeing the operation of the facility or closing the facility.

V.A.M.S. 210.257

210.257. Rules, procedure to adopt

No rule or portion of a rule promulgated under the authority of section 210.252 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

V.A.M.S. 210.258

210.258. Religious organizations operating facility, no interference permitted with curriculum, personnel or selection of children--discipline policies, explanation required for parent

The provisions of this section and section 210.259 apply to a child care facility maintained or operated under the exclusive control of a religious organization. Nothing in sections 210.252 to 210.257 shall be construed to authorize the department of health and senior services or any other governmental entity:

- (1) To interfere with the program, curriculum, ministry, teaching or instruction offered in a child care facility;
 - (2) To interfere with the selection, certification, minimal formal educational degree requirements, supervision or terms of employment of a facility's personnel;
 - (3) To interfere with the selection of individuals sitting on any governing board of a child care facility;
 - (4) To interfere with the selection of children enrolled in a child care facility; or
 - (5) To prohibit the use of corporal punishment. However, the department of health and senior services may require
- Statutes are current with emergency legislation approved through June 10, 2014, of the 2014 Second Regular Session of the 97th General Assembly. Constitution is current through the November 6, 2012 General Election.

Annotated Missouri Statutes _Title XII. Public Health and Welfare _Chapter 210. Child Protection and Reformation (Refs & Annos) _Licensing of Certain Child Care Homes

the child care facility to provide the parent or guardian enrolling a child in the facility a written explanation of the disciplinary philosophy and policies of the child care facility.

V.A.M.S. 210.259

210.259. Nonreligious organization's agreement for child-care facility on property of religious organization not deemed to be under exclusive control by religious organization

When a nonreligious organization, having as its principal purpose the provision of child care services, enters into an arrangement with a religious organization for the maintenance or operation of a child care facility on the property of the religious organization, the facility is not under the exclusive control of the religious organization.